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REPORT OF THE ECONOMIC AND SOCIAL COUNCIL

Report of the open-ended Working Group on the Drafting of an International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

Chairman: Mr. Claude HELLER (Mexico)

Vice-Chairman: Mr. Juhani LONNROTH (Finland)

INTRODUCTION

1. The Working Group on the Drafting of an International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, open to all Member States, was established under General Assembly resolution 34/172 of 17 December 1979.

2. The Working Group has since held the following sessions at United Nations Headquarters: (a) the first session, during the thirty-fifth session of the General Assembly, from 8 October to 19 November 1980; (b) a first inter-sessional meeting, from 11 to 22 May 1981; (c) a second session, during the thirty-sixth session of the Assembly, from 12 October to 20 November 1981; (d) a second inter-sessional meeting, from 10 to 21 May 1982; (e) a third session, during the thirty-seventh session of the Assembly, from 18 October to 16 November 1982; (f) a third inter-sessional meeting, from 31 May to 10 June 1983; (g) a fourth session, during the thirty-eighth session of the Assembly, from 27 September to 6 October 1983; (h) a fourth inter-sessional meeting, from 29 May to 8 June 1984; (i) a fifth session, during the thirty-ninth session of the Assembly, from 26 September to 5 October 1984; (j) a fifth inter-sessional meeting, from 3 to 14 June 1985; (k) a sixth session, during the fortieth session of the Assembly, from 23 September to

* A/45/50.

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4 October 1985; (l) a seventh session, during the forty-first session of the Assembly, from 24 September to 3 October 1986; (m) a sixth inter-sessional meeting, from 1 to 12 June 1987; (n) an eighth session, during the forty-second session of the Assembly, from 22 September to 2 October 1987; (o) a seventh inter-sessional meeting, from 31 May to 10 June 1988; (p) a ninth session, during the forty-third session of the General Assembly, from 27 September to 7 October 1988; (q) an eighth inter-sessional meeting, from 31 May to 9 June 1989; (r) a tenth session, during the forty-fourth session of the General Assembly, from 26 September to 6 October 1989; and (s) a ninth inter-sessional meeting from 29 May to 8 June 1990.

3. In its resolution 44/155 of 15 December 1989, the General Assembly, inter alia, took note with satisfaction of the two most recent reports of the Working Group (A/C.3/44/1 and A/C.3/44/4) and, in particular, of the progress made by the Working Group. The Assembly requested the Secretary-General to entrust to the Centre for Human Rights of the Secretariat the technical revision of the text of the articles of the draft Convention that had been approved so far by the Working Group in second reading, with a view to ensuring uniformity of terminology and gender and to harmonizing the versions in the official languages of the United Nations, bearing in mind General Assembly resolution 41/120 of 4 December 1986, and to transmit the results of that technical revision to Governments as soon as possible, and at least one month before the next meeting of the Working Group, to be held in 1990. The Assembly decided that the Working Group should hold a meeting of two weeks' duration in New York, immediately after the first regular session of 1990 of the Economic and Social Council, with a view to completing the remaining articles and considering the results of the technical revision of the draft Convention. The Assembly invited the Secretary-General to transmit to Governments the two most recent reports of the Working Group so as to enable the members of the Working Group to finish the drafting, in second reading, of the draft Convention during the meeting to be held in the spring of 1990, as well as to transmit the results obtained at that meeting to the General Assembly so that it might take a decision during its forty-fifth session. The Assembly also invited the Secretary-General to transmit those documents to the competent organs of the United Nations and to the international organizations concerned, for their information, so as to enable them to continue their co-operation with the Working Group. The Assembly requested the Secretary-General to do everything possible to ensure adequate secretariat services for the Working Group during the meeting to be held immediately after the first regular session of 1990 of the Economic and Social Council, for the timely fulfilment of its mandate.

4. In pursuance of General Assembly resolution 44/155, the Working Group met at United Nations Headquarters from 29 May to 8 June 1990.

5. The Working Group held 16 meetings with the participation of the delegations from all regions. Observers from the International Labour Office and the International Organization for Migration attended the session.

6. The Working Group had before it the following documents:

(a) Reports of the Working Group on its sessions in 1989 (A/C.3/44/1 and A/C.3/44/4);

(b) Text of the pending articles and parts of articles of the draft Convention (A/C.3/45/WG.1/CRP.1);

(c) Text of the preamble and articles of the draft Convention adopted on second reading by the Working Group (A/C.3/45/WG.1/WP.1);

(d) Text of the preamble and articles revised on the basis of a technical review of linguistic issues (A/C.3/45/WG.1/WP.1/Rev.1);

(e) Comments and suggestions relating to the technical review of the text of the preamble of articles of the draft Convention contained in document A/C.3/45/WG.1/WP.1 (A/C.3/45/WG.1/WP.1/Rev.1/Add.1);

(f) Text of the preamble and articles of the draft Convention provisionally agreed upon by the Working Group during the first reading (A/C.3/39/WG.1/WP.1);

(g) Additional comments by the International Labour Office relating to the technical review of the text of the preamble and articles of the draft Convention contained in a letter dated 16 May 1990;

(h) Comments by the United Nations Educational, Scientific and Cultural Organization (UNESCO) relating to the technical review of the text of the preamble and articles of the draft Convention contained in a letter dated 21 May 1990.

7. For reference the following documents were available to the Working Group:

(a) Previous reports of the Working Group (A/C.3/35/13, A/C.3/36/10, A/C.3/37/1, A/C.3/37/7 and Corr.1 and 2 (English only), A/C.3/38/1, A/C.3/38/5, A/C.3/39/1, A/C.3/39/4 and Corr.1 (English only), A/C.3/40/1, A/C.3/40/6, A/C.3/41/3, A/C.3/42/1, A/C.3/42/6, A/C.3/43/1 and A/C.3/43/7);

(b) Proposals for part VII (formerly part VI) of the draft Convention, submitted by Mexico (A/C.3/43/WG.1/CRP.1/Rev.1);

(c) Letter dated 9 June 1989 from the Chairman of the Working Group, addressed on behalf of the Working Group to the Under-Secretary-General for Human Rights;

(d) Working paper submitted by Japan containing proposals for parts VIII and IX of the draft Convention (A/C.3/44/WG.1/CRP.3);

(e) Proposals for article 50 of the draft Convention submitted by Portugal and the Federal Republic of Germany (A/C.3/44/WG.1/CRP.4);

(f) Working paper submitted by Japan containing proposals relating to articles 50, 56, 62, 70, 72 and 74 of the draft Convention (A/C.3/44/WG.1/CRP.5/Rev.1);

(g) Pending articles and parts of articles of the draft Convention still in brackets on second reading (A/C.3/44/WG.1/CRP.6 and Add.1 and 2);

(h) Letter dated 3 May 1988 submitted by the International Labour Office (A/C.3/43/WG.1/CRP.2);

(i) Working paper submitted by Finland, Greece, Italy, Morocco, the Netherlands, Norway, Portugal, Spain, Sweden and Yugoslavia containing proposals for part VII of the draft Convention entitled "Application of the Convention" (A/C.3/43/WG.1/CRP.5);

(j) Working paper submitted by Finland, Greece, India, Italy, Norway, Portugal, Spain and Sweden containing a proposed text for article 62 ter (Self-employed migrant workers) (A/C.3/43/WG.1/CRP.6);

(k) Cross-references in the draft Convention (A/C.3/40/WG.1/CRP.3);

(l) Working paper concerning self-employed migrant workers submitted by Finland, Greece, India, Italy, Norway, Spain and Sweden, subsequently joined by Portugal, containing proposals for additional provisions in article 2 and part IV of the draft Convention (A/C.3/40/WG.1/CRP.6);

(m) Letter dated 21 August 1985 from the Vice-Chairman of the Working Group addressed to the Chairman of the Working Group (A/C.3/40/WG.1/CRP.7);

(n) Working paper submitted by the United States of America containing a proposal relating to article 2 of the draft Convention (A/C.3/40/WG.1/CRP.8);

(o) Proposal by Australia for a new subparagraph of article 2, paragraph 2, of the draft Convention (A/C.3/40/WG.1/CRP.9);

(p) Working paper submitted by Denmark: revised proposal to replace article 89 in document A/C.3/39/WG.1/WP.1 (A/C.3/40/WG.1/CRP.11);

(q) Report of the Secretary-General on policies related to issues concerning specific groups: the social situation of migrant workers and their families (E/CN.5/1985/8);

(r) The observations of the International Labour Office on the text provisionally agreed upon during the first reading (A/C.3/40/WG.1/CRP.1);

(s) Comments of the Government of Colombia on the report of the Working Group (A/C.3/40/WG.1/CRP.2);

(t) Proposed text for articles 70 and 72 of the draft Convention, submitted by the delegation of Mexico (A/C.3/40/WG.1/CRP.4);

(u) Working paper submitted by Finland, Greece, Italy, Norway, Portugal, Spain and Sweden concerning the definition of "migrant workers" contained in the revised proposal for part I, articles 2 and 4, and part IV of the draft Convention (A/C.3/38/WG.1/CRP.5);

(v) Compilation of proposals made by members of the Working Group (A/C.3/36/WG.1/WP.1).

I. ORGANIZATION OF WORK

8. At its 1st meeting on 29 May 1990, the Working Group agreed to proceed first with the pending articles and provisions and then to take up the consideration of the technical review of the draft Convention on the basis of the text of the preamble and articles adopted by the Working Group contained in document A/C.3/45/WG.1/WP.1, taking into account the text as revised on the basis of a technical review of linguistic issues reflected in document A/C.3/45/WG.1/WP.1/Rev.1 as well as the comments and suggestions relating to the text contained in document A/C.3/45/WG.1/WP.1/Rev.1/Add.1. The Working Group also decided to set up a small drafting group to review the results of the technical review and to submit its proposals to the plenary for approval.

9. At the outset of the session, the representative of Norway, referring to paragraph 43 of the Working Group's report (A/C.3/44/4), stated that the statement by the International Labour Office contained in that paragraph had not been made when the Working Group had considered the provision relating to seafarers, but during the revision of the said report. He held the view that the circumstances under which the said statement had been made should be properly reflected in the report. The representative of Morocco supported that view since the observer of the International Labour Office had not been present during the consideration of the provision relating to seafarers.

II. CONSIDERATION OF THE ARTICLES OF THE INTERNATIONAL CONVENTION ON THE PROTECTION OF THE RIGHTS OF ALL MIGRANT WORKERS AND MEMBERS OF THEIR FAMILIES

10. This part of the report contains exclusively the results of the discussion on the provisions of the draft Convention still pending during the second reading, namely article 50, paragraphs 3 and 4 of article 61 (formerly article 62), paragraph 8 of article 72 (formerly article 70), article 87 and paragraphs 3 and 4 of article 88 (formerly article 86). The discussion was based on proposals contained in document A/C.3/45/WG.1/CRP.1 and on new proposals submitted in the course of the session.

Title of the draft Convention

11. In the course of the present session, the Working Group decided to include the words "Members of" between the words "Workers and" and the words "Their Families".

12. The title of the draft Convention as amended and adopted by the Working Group on second reading reads as follows:

READEX FICHE

Draft International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

Article 50

13. At its 1st meeting, held on 29 May 1990, the Working Group took up consideration of article 50 on the basis of a text that had emerged from informal consultations and which was reproduced as proposal M in section I of document A/C.3/45/WG.1/CRP.1 as follows:

> "1. In the case of death of the migrant worker or dissolution of marriage, the State of employment shall favourably consider granting family members of such migrant worker residing in that State on the basis of family reunion an authorization to stay; the State of employment shall take into account the length of time for which they have already resided in that State.
>
> "2. Members of the family to whom such authorization is not granted shall be allowed before departure a reasonable period of time to settle their affairs in the State of employment.
>
> "3. The provisions of the preceding paragraphs may not be interpreted as adversely affecting any right to stay and work otherwise granted to such family members by the legislation of the State of employment or by treaties applicable to that State."

14. With reference to paragraph 2 of the proposal, the representative of Algeria stated that she would prefer that the word "reasonable" be replaced by the word "sufficient" because the latter was more specific. The representative of Morocco indicated that she would be willing to support a text for the paragraph which gave migrant workers a "reasonable" or "sufficient" period of time "in order" to "enable them to" settle their affairs in the State of employment. The representatives of Portugal and Tunisia expressed the same view.

15. The representative of the Federal Republic of Germany stated that, practically speaking, the two words were much the same, particularly when it came to assessing the application of the provision. He strongly preferred maintaining the word "reasonable", which had already been used in other provisions of the draft Convention. He drew the attention of the Working Group to proposal B submitted by his delegation contained in document A/C.3/45/WG.1/CRP.1 and expressed a preference for that formulation for article 50. However, he would not wish to block a consensus in favour of another formulation and would be content to have his position reflected in the report.

16. The representatives of the Netherlands and France expressed a clear preference for the word "reasonable". The representative of the Netherlands stated that the word carried a precise meaning in his country's jurisprudence and both representatives indicated that, if States had to allow "sufficient" time, that might in the end be interpreted in a much wider sense than had been the intention of the Working Group.

17. The representatives of Finland and Algeria expressed a preference for the word "sufficient". In particular, the representative of Finland stated that there was a precedent in article 49 of the text already adopted during the second reading for limiting time by the word "sufficient". The representative of Japan also drew the attention of the Working Group to proposal L submitted by Japan contained in document A/C.3/45/WG.1/CRP.1.

18. The representatives of the Union of Soviet Socialist Republics and Italy pointed out that the debate over the wording to be adopted reflected two different ideas, whether the families of migrant workers should get any amount of time they needed to settle their affairs or whether they should merely be granted enough time within which they would be expected to settle their affairs. The representative of Italy was of the view that "reasonable" struck the right balance. The representative of the USSR explained those different ideas in terms of a conflict between humanitarian interests on the one hand and the interests of States and society on the other. As a possible compromise he suggested consideration of "reasonably sufficient".

19. The representatives of the United States, France and the Netherlands agreed with the foregoing analysis and reiterated that they felt that the word "reasonable" struck the right balance. The representative of France indicated that he would not be able to join a consensus in favour of any other text.

20. The representatives of Algeria, Morocco and India all expressed a preference for a formulation which would give pre-eminence to the interests of the families of migrant workers but indicated that they would not block a consensus by insisting on the adoption of a text reflecting their position.

21. The representative of the USSR drew the attention of the Working Group to possible problems in defining "settle their affairs". That phrase could be interpreted extremely widely and he suggested that its exact meaning should be clarified. The representative of the Netherlands was of the opinion that the concept of "reasonable" took care of that concern. The representatives of Italy and the Netherlands agreed however that, if the Working Group were to decide to allow "sufficient" time, then the exact meaning of "settle their affairs" would have to be defined.

22. In the light of the foregoing discussion, the Working Group decided to adopt the following text for article 50:

Article 50

1. In the case of death of a migrant worker or dissolution of marriage, the State of employment shall favourably consider granting family members of that migrant worker residing in that State on the basis of family reunion an authorization to stay; the State of employment shall take into account the length of time for which they have already resided in that State.

2. Members of the family to whom such authorization is not granted shall be allowed before departure a reasonable period of time in order to enable them to settle their affairs in the State of employment.

3. The provisions of paragraphs 1 and 2 of this article may not be interpreted as adversely affecting any right to stay and work otherwise granted to such family members by the legislation of the State of employment or by treaties applicable to that State.

23. The representative of Japan expressed his delegation's reservation on article 50.

Article 61

24. At its 2nd meeting, held on 29 May 1990, the Working Group took up consideration of additional provisions for article 61 (former article 62) on the basis of a proposal by the Mediterranean and Scandinavian (MESCA) group of countries contained in section II of document A/C.3/45/WG.1/CRP.1 as follows:

"1. ...

"(c) To have their earnings paid in their State of origin or the State of their normal residence, without prejudice to article 47 of the present Convention.

"...

"4. Without prejudice to existing instruments on social security and double taxation among States concerned, the States concerned shall take appropriate measures to ensure that project-tied workers:

"(a) Are adequately covered for the purposes of social security and do not suffer in their State of origin or normal residence any denial of rights or duplication of social security deductions;

"(b) Do not suffer from double taxation, without prejudice to article 48."

and a proposal by the representative of Finland as follows:

"3. Subject to bilateral or multilateral agreements in force for the States Parties concerned, these States Parties shall endeavour to enable project-tied workers to remain adequately protected by the social security systems of their State of origin or normal residence during their engagement in the project. The State Parties concerned shall take appropriate measures with the aim of avoiding any denial of rights or duplication of payments in this respect.

"4. Without prejudice to the provisions of article 47 and to specific bilateral or multilateral agreements, the States Parties concerned shall permit payment of the earnings of project-tied workers in their State of origin or normal residence."

25. In introducing the proposal, the representative of Finland indicated that the proposed paragraph 3 was intended to ensure that project-tied migrant workers were able to participate in the social security systems of their State of origin and to prevent them from being denied the enjoyment of entitlements merely because of their absence from their State of origin. That was particularly important in their case because there was no intention on the part of such migrant workers to stay in the State of employment and, therefore, their full participation in the social security systems of their State of origin had to be ensured. Proposed paragraph 4 was intended to allow project-tied workers to be paid in their own State. The representative of Italy added that the provision indicated that employers were not obliged to pay project-tied migrant workers in the local currency of the State in which they had worked.

26. With regard to paragraph 3, the representative of the Federal Republic of Germany wondered whether the text of article 27 on social security, adopted on second reading, did not adequately cover project-tied workers. Moreover, under article 27, all migrant workers were placed on an equal footing with nationals of the State of employment, whereas the new proposal sought to single out one category of workers for different treatment, in order to avoid a situation in which the State of employment was obligated unconditionally to exempt such migrant workers from payments when its national legislation allowed such exemptions only in particular circumstances relating to the nature of the social security coverage in the State of origin. In the interest of consistency, the words "in their national legislation" should be inserted after the words "appropriate measures" in the second sentence. Also for the sake of consistency, language should be added indicating that the new provision would have effect only where article 27 was not applicable for some reason. He was prepared to support the proposed paragraph 4 as introduced.

27. The representative of Japan also questioned why project-tied migrant workers should be singled out for special treatment, reiterated his delegation's opposition to the idea and suggested the deletion of the whole provision.

28. The representative of Italy pointed out that the principle of equality with nationals of the State of employment was not appropriate in the case in point because, whereas normal migrant workers hoped to stay in the State of employment for a substantial period, project-tied workers were clearly transitory and would not normally be able to enjoy the same social security benefits in that State as permanent residents.

29. With reference to the amendment proposed by the representative of the Federal Republic of Germany to paragraph 3 of the original proposal by Finland, the representatives of Sweden, Finland, Italy, Yugoslavia, the Netherlands and France expressed a preference for a formulation without any reference to national legislation. They pointed out that a reference to national legislation would unduly limit the scope of the provision. The representative of the Federal Republic of Germany stated that, although he was convinced that the issue should be governed by domestic legislation, he would not block a consensus in favour of another approach by insisting on his proposal.

30. The representative of the United States questioned how States could unilaterally regulate the issues covered by the provisions and therefore offered the following text as an alternative to the Finnish proposal: "The States Parties shall endeavour to conclude bilateral and multilateral agreements to enable project-tied workers, during their engagement in the project, to remain adequately protected by the social security systems of their States of origin or normal residence and to avoid any denial of rights or duplication of payments."

31. The representative of Italy expressed a preference for the approach taken in the proposal by Finland because domestic legislation was sometimes the most appropriate form of regulation. The essential aim was to regulate the issues of social security and double payments and that bilateral and multilateral agreements were merely one means of achieving that aim, and not an end in themselves. The representatives of Finland, Australia and India expressed the same view.

32. The representative of Australia suggested that the words "for the" after "in force" in the proposal for paragraph 3 by Finland should read "for them" and the words "these States Parties" after "concerned" should be deleted. Those linguistic refinements would make for a clearer text.

33. In view of the consensus in favour of the proposal by Finland, and taking into account the linguistic amendments suggested by the representative of Australia, the Working Group decided to adopt the proposal of Finland as paragraphs 3 and 4 of article 61.

34. After the adoption of the two paragraphs, the representative of the United States stated that her delegation had not wished to block consensus on those provisions, but clarified for the record that, in her delegation's view, the only "appropriate measures" a State could take to try to avoid denial of social security rights or duplication of payments would be to endeavour to conclude bilateral or multilateral agreements aimed at achieving that goal.

35. The representative of the Federal Republic of Germany reiterated his delegation's opposition to the inclusion of project-tied workers in the Convention but indicated that, in order not to block a consensus, he would be content to have his delegation's position reflected in the report. The representative of Japan made a similar statement reserving his delegation's position as regards those provisions.

36. The text of paragraphs 3 and 4 of article 61, as adopted during the second reading, reads as follows:

Article 61

...

3. Subject to bilateral or multilateral agreements in force for them, States Parties concerned shall endeavour to enable project-tied workers to remain adequately protected by the social security systems of their States of origin or habitual residence during their engagement in the project. The

States Parties concerned shall take appropriate measures with the aim of avoiding any denial of rights or duplication of payments in this respect.

4. Without prejudice to the provisions of article 47 of the present Convention and to specific bilateral or multilateral agreements, States Parties concerned shall permit payment of the earnings of project-tied workers in their State of origin or habitual residence.

Article 72, paragraph 8

37. At its 2nd meeting, held on 29 May 1990, the Working Group took up consideration of paragraph 8 of article 72 on the basis of the text contained in section III A for paragraph 8 of former article 70 contained in document A/C.3/45/WG.1/CRP.1 as follows:

"8. [Same text as in the right-hand column of document A/C.3/43/WG.1/CRP.1/Rev.1.]

"The members of the Committee shall receive emoluments from United Nations resources on such terms and conditions as the General Assembly may decide, having regard to the importance of the Committee's responsibilities."

38. The representative of Finland expressed support for the adoption of that text on the basis that the principle of universality which permeated the text of the draft Convention should also extend to the question of finances for the implementation of the Convention.

39. The representative of the United States expressed a strong preference for a system of funding by States parties to the Convention, and cited the Convention against Torture, the latest human rights convention to enter into force, as a precedent. His delegation would be willing to support either the equivalent provisions in the Convention against Torture or proposal C by Japan contained in document A/C.3/45/WG.1/CRP.1. He pointed out however that, since it was unlikely that the Working Group would be able to arrive at any consensus, it may be wise to send the draft Convention for adoption by the General Assembly with two alternative texts for paragraph 8. Since the question of finances was essentially an issue of administrative policy it would be more appropriate for it to be settled by people more qualified in those questions at the level of the General Assembly.

40. The representative of the Federal Republic of Germany expressed general agreement with the position of the United States, but was willing only to support a text based on the Convention against Torture.

41. The representative of Sweden agreed that it was unlikely that a consensus would be reached and that it would be wise in that event to transmit the text with alternatives for paragraph 8 to the General Assembly for it to decide. His delegation supported a system of funding by the United Nations and cited the Convention on the Rights of the Child, the most recent human rights convention adopted by the General Assembly, as a precedent. With regard to the Japanese proposal, he suggested that the idea of allowing the payment or otherwise of

contributions by States parties to govern the participation of experts in the proposed Committee would derogate from the independence of the experts and therefore, if for no other reason, he could not support it. The representative of the Federal Republic of Germany expressed agreement with that last point.

42. The representative of Japan drew the attention of the Working Group to proposals submitted by his delegation contained in document A/C.3/45/WG.1/CRP.1 and pointed out that the proposal in section C was essentially taken from article 16(5) of the UNESCO Convention.

43. The representatives of Yugoslavia and Morocco drew the attention of the Working Group to the problems being encountered in the implementation of conventions funded by States Parties, such as the Convention on the Elimination of All Forms of Racial Discrimination, and expressed a clear preference for the funding of the proposed Convention by the United Nations in order to avoid such problems.

44. The representative of the Netherlands supported United Nations financing in order to be consistent with the spirit of universality found in the draft Convention and because he viewed it as the most effective means of ensuring the implementation of the Convention. He did not want the issue of financing to deter nations from ratifying the Convention.

45. The delegations of Australia, Mexico, China, India, Norway, Algeria and France supported a system of United Nations financing for the reasons already outlined by the other delegations sharing that position. The representative of Australia indicated that his delegation had changed its former position on that issue in the light of a policy review carried out by his Government and therefore supported the financing of the proposed Committee by the United Nations. The representative of France indicated that the Working Group could decide on one text immediately or send a draft with alternative texts on the issue but that the ultimate outcome was fairly easy to predict.

46. In view of the foregoing discussion, the Working Group decided at its 6th meeting on 31 May 1990 to submit alternative texts for paragraph 8 of article 72 to be settled definitively by the General Assembly. The Working Group also decided to renumber former paragraph 10 of the article as paragraph 9.

47. The representative of Japan stated that the alternative texts for paragraph 8 of article 72 should also be sent to the Fifth Committee of the General Assembly.

48. The two alternative texts for paragraph 8 of article 72 which the Working Group decided to submit to the General Assembly read as follows:

Alternatives for article 72, paragraph 8

8. [The members of the Committee shall receive emoluments from United Nations resources on such terms and conditions as the General Assembly may decide.]

OR

[States Parties shall be responsible for:

(a) The expenses of the members of the Committee while they are performing Committee duties; and

(b) Expenses incurred in connection with the holding of meetings of States Parties and of the Committee, including reimbursement to the United Nations for any expenses, such as the cost of staff and facilities, incurred by the United Nations pursuant to paragraph 7 of this article.]

Article 73, paragraph 4

49. At its 11th meeting, held on 5 June 1990, on the proposal by the delegation of Sweden, which received wide support, the Working Group adopted a text for paragraph 4 of article 73 which reads as follows:

4. States Parties shall make their reports widely available to the public in their own countries.

50. Following the adoption of the provision the representative of the Federal Republic of Germany expressed the view that the provision, which would include in the draft Convention a provision similar to article 44, paragraph 6, of the Convention on the Rights of the Child, was not a matter of drafting but a matter of substance and that his delegation should therefore have an opportunity to state for the record that it might not be able to join in the consensus in the Working Group. The substance of the proposal raised serious concerns for his delegation. The fact that the Government of the Federal Republic of Germany had come out in favour of a similar provision at the time of the adoption of the Convention on the Rights of the Child did not mean that it could not adopt a different position with respect to the present Convention. Given the special nature of the draft Convention, which set forth not only fundamental human rights but also specific rights relating to such matters as alien residents and aliens engaging in remunerated activity, social security, tax laws, labour relations, information to be provided by the authorities of the State of employment and the transfer of revenue and property, his delegation had repeatedly had to take a different position than the one it had taken on other human rights conventions. By way of example he referred to the provisions concerning the financing of the procedure for the implementation of the Convention, complaints between States and individuals, reservations and reciprocity. He then pointed out that, even in the case of reports submitted under article 16 of the Covenant on Economic, Social and Cultural Rights, the competent authorities of his country merely informed individuals interested in obtaining such reports that they were published by, and could be obtained from, the United Nations. A provision in the present Convention - which

dealt with an issue which was politically far more sensitive than that dealt with in the said Covenant - requiring States parties to give broader dissemination to reports submitted under article 73 would, therefore, be unacceptable to his delegation. However, he was prepared to go along with the consensus provided that the term "widely" was deleted and provided that the report of the meeting showed that the term "to make available" covered the practice of informing interested individuals or groups that they could obtain the reports from the competent services of the United Nations, it being understood, at the same time, that the reports would contain no references to any criticisms which might be levelled by the Committee established under article 72 of the draft Convention. As the Working Group was not prepared to accept those amendments and clarifications, the representative of the Federal Republic of Germany stated that he would not stand in the way of a consensus provided that his position was duly reflected in the report.

51. The representative of Japan stated that whether the decision to make its report available to the public or not was one that should be taken by each State party as a matter of its domestic policy and he expressed his delegation's reservations on that provision.

Article 87

52. At its 2nd meeting, held on 29 May 1990, the Working Group took up consideration of a text for article 87 based on texts for former article 86 contained in section IV of document A/C.3/45/WG.1/CRP.1 as follows:

"Article 86

[At the time of signature, ratification, acceptance, approval or accession, any State may declare that it shall apply [articles 52, 53, 54, 55 and 56] of the present Convention only in relation to nationals of other States Parties.]"

"Article 86

[At the time of signature, ratification, acceptance, approval or accession, any State may indicate the provisions of parts III and IV of the present Convention which it will apply only to the nationals of other States Parties.]"

and a proposal for former article 86 submitted by the representative of Finland as follows:

"A State ratifying or acceding to the present Convention may not exclude the application of any part of it or without prejudice to article 3, exclude any particular category of migrant workers from its application."

53. In introducing the proposal, the representative of Finland stated that some members of the Working Group had sought to include a reciprocity clause in the substance of former article 86, in order to preclude the possibility of States ratifying the Convention solely to derive benefits from it and to ensure that all States parties bore their fair share of obligations. One of the principal concerns of many members of the Working Group was that some States might seek to ratify only specific parts of the Convention or seek to exclude certain categories of migrant workers from its ambit. The essential motivation behind the present proposal was to preclude that and, if accepted, it would render the adoption of a provision on reciprocity redundant.

54. The representative of the Federal Republic of Germany expressed a preference for the text for former article 86 as contained in the right-hand column of document A/C.3/45/WG.1/CRP.1. He reiterated that the draft Convention went into too many details and, if his Government was considering whether to ratify the Convention, it would not wish to be bound to recognize all of the extensive rights covered therein in respect of the many categories of migrant workers it sought to cover. He was therefore unwilling to support the text of the proposal by Finland. The representative of Japan also expressed a preference for the text in the right-hand column of document A/C.3/45/WG.1/CRP.1 and reserved the position of his delegation as regards the proposal by Finland.

55. The representative of the Netherlands expressed his support for the proposal by Finland on the grounds that he wanted to preclude the possibility of partial ratification of the Convention and preferred the approach taken in that proposal to the adoption of a reciprocity clause.

56. The representative of Morocco also supported the proposal by Finland and suggested that it could be improved by substituting the word "may" by the word "shall". That would facilitate the translation of the provision into other languages. The representatives of Mexico and India supported the proposed amendment. However, the representative of Sweden stated that the words "may not" were sufficiently strong and clear in English and should be left as they were in the proposal, adding that an appropriate translation could be found in other languages.

57. The representatives of the United States, France and Finland proposed that the word "part" should read "Part" in order to make it clear that what was meant was any of the "Parts" of the Convention and not any portion of it. The representative of France suggested that the words "a whole Part" could be used in order to make matters even clearer.

58. The representative of France suggested that the words ", nor make reservations on any Part of it, nor" be inserted in the proposal instead of ", or" between the words "it" and "without". However, the representative of Finland suggested that that proposed addition be omitted as, if included, it might give rise to some confusion, particularly since there was already a separate provision on the question of reservations.

59. At its 3rd meeting on 30 May 1990, the Working Group continued consideration of former article 86 (now article 87). Speaking on the suggested change of the words "may not" to "shall not" in the Finnish proposal, the representative of Australia stated his clear preference for the original "may not".

60. The concept of reciprocity was discussed by the Working Group in connection with the Finnish proposal. The representative of Australia stated that, if no reciprocity clause was included in the Convention, the citizens of a country which was not a party to it would have privileges in another country which was a party to the Convention. On the other hand, since the Convention contained fundamental human rights, a reciprocity clause could have negative implications for such rights, which would be unacceptable. Such a reciprocity clause should therefore

not be included. He agreed with the Finnish proposal since the Convention was an all-inclusive one in terms of the cateogries of workers covered. That in fact differentiated it from ILO Convention No. 143, which could be ratified in parts.

61. On the same issue, the representative of Italy stated that corollary of the idea of universality was the indivisibility of the Convention. He thus supported the Finnish proposal, which reflected that idea.

62. The representative of the Netherlands pointed out that the word "Part" in the Finnish proposal should be spelled with a capital "P" so that any exclusion of certain categories of migrant workers could be prevented.

63. The representative of China also spoke in favour of the indivisibility of the Convention. The Convention should be applied to all migrant workers and their families from wherever they came. If reciprocity was established, it would mean different treatment of migrant workers coming from different countries, something which would contravene the letter and spirit of the Convention.

64. The representative of the USSR, referring to the phrase "without prejudice to article 3" in the Finnish proposal, pointed out that article 3 did not mention cases under the optional article 76. Thus he suggested that a reference to the latter article be made in the Finnish text. The representatives of the Netherlands and Australia did not consider a reference to article 76 necessary, given its optional character.

65. At the invitation of the Chairman, the representative of France read out the French version of the Finnish proposal as follows:

> "Un Etat ratifiant ou adherant à la présente Convention ne saurait exclure l'application d'une quelquonque partie de celle-ci, ni, sans préjudice de l'article 3, exclure de son application une catégorie particulière de travailleurs migrants."

66. At the 3rd meeting on 30 May 1990, the Finnish proposal was adopted by consensus as article 87 as follows:

> Article 87
>
> A State ratifying or acceding to the present Convention may not exclude the application of any Part of it or, without prejudice to article 3, exclude any particular category of migrant workers from its application.

67. The delegations of Morocco and Mexico strongly objected to the inclusion of the principle of reciprocity in the draft Convention; that principle would encourage selective application of the Convention, which was unacceptable in a human rights instrument.

68. The representative of the Federal Republic of Germany objected to the deletion of a clause on reciprocity such as that contained in article 86 of the text adopted on first reading. While conceding that an international treaty on human rights

should, in principle, be universal and should therefore not contain a clause on reciprocity, he pointed out that the present Convention recognized, in addition to fundamental human rights, a number of rights relating to such matters as social security, taxation and independent paid activity, matters which, in many international treaties, were subject to reciprocity. Furthermore it was regrettable that the proposal currently before the Working Group did not seek merely to delete the clause on reciprocity but to replace it by a provision which would forbid States parties from excluding certain categories of migrant workers from the application of the Convention. At its fall 1989 session, the Working Group had, after lengthy debate, rejected a similar provision in the context of the present article 90. It was not only unfortunate but inadmissible that the Working Group should be asked to reconsider an issue that had already been settled in second reading. With regard to the substance of the proposal, he drew attention to the statements by his delegation, which were referred to in paragraph 28 of document A/C.3/44/1 and in paragraphs 315 and 330 of document A/C.3/44/4. However, realizing that the other members of the Working Group were in favour of deleting the clause on reciprocity and replacing it by a formula that would forbid the exclusion of certain categories of migrant workers from the application of the Convention, and not wishing to stand in the way of a consensus, he merely asked that his position should be reflected in the report.

69. The representative of Japan said that his delegation was in favour of a reciprocity clause in the Convention and reserved his position in that regard.

70. The representative of France recalled that his delegation had always favoured the drafts of article 86 which had emerged from the discussion on first reading. Since his delegation had agreed to join the consensus in favour of adopting a new article 86, it wished to confirm that the principle of reciprocity could always have an impact on the effectiveness of a number of articles of the Convention. That was particularly true of articles 48, 52, 53 and 54 of the Convention.

71. The representative of Italy stressed that, in ratifying the Convention, States might subject the application of certain articles to the criterion of reciprocity.

Paragraphs 3 and 4 of article 88

72. At its 3rd meeting, held on 30 May 1990, the Working Group took up consideration of a proposal by the delegation of Italy, contained in section V of document A/C.3/45/WG.1/CRP.1, to add a provision to article 86, now adopted as article 88. The proposal read as follows:

> "The denunciation of the Convention shall not affect the rights acquired by the migrant workers or their families on the basis of the present Convention prior to denunciation."

73. The representative of the Federal Republic of Germany indicated that the concept of acquired rights posed potential problems that were not easy to anticipate and asked what the juridical consequences of including that concept in the draft Convention would be. The representative of the United States also mentioned some concerns felt by his delegation and asked which rights could be deemed to be acquired and who would be the ultimate arbiter.

74. The representatives of Sweden, Norway, Finland and China shared those concerns. In particular, the representative of Sweden stated that many of the rights reflected in the draft Convention were inherent rights, not acquired, and, therefore, denunciation of the Convention could not affect them. He further stated that to include an all-embracing provision on acquired rights in the draft Convention could call into question the inherent nature of many of the fundamental rights contained therein. The representative of China was of the view that article 70 of the Vienna Convention on the Law of Treaties was sufficient to cover the question of denunciation.

75. The representative of Italy indicated that acquired rights were those rights which were acquired by virtue of the Convention and that the intent of his proposal was to ensure that such rights were not lost simply by the denunciation of the Convention by any State Party. The text of the proposal was essentially taken from a provision contained in the European Convention on the Status of Migrant Workers.

76. The representative of Finland pointed out that a major concern of many members of the Working Group was the possibility that some States parties might seek to avoid the scrutiny of the Committee proposed by the draft Convention by denouncing the Convention. To avoid that, the Working Group should adopt a text to be added to article 88, based on article 31 (2) of the Convention against Torture, as follows:

> "3. Such denunciation shall not in any way prejudice the continued consideration of any matter which is already under consideration by the Committee prior to the date at which the denunciation becomes effective."

or the whole of paragraph 2 of article 31 of the Convention against Torture should be used since that would also cover the concern raised in the proposal by Japan contained in section V B of document A/C.3/45/WG.1/CRP.1.

77. The representatives of Australia and the Netherlands suggested the adoption of paragraphs 2 and 3 of article 31 of the Convention against Torture. They preferred the approach taken in those provisions regarding the question of denunciation to that taken in the proposal by the representative of Italy. The representative of Italy indicated that, since the concept of acquired rights appeared to raise some problems, he would withdraw his proposal and was willing to support the proposal by the representatives of Australia and the Netherlands. The representatives of the Federal Republic of Germany and Finland agreed that that approach appeared to meet all concerns and that it should be adopted.

78. In view of the foregoing discussion the Working Group decided to adopt the following text for paragraphs 3 and 4 of article 88:

Article 88

...

3. Such a denunciation shall not have the effect of releasing the State Party from its obligations under the present Convention in regard to any act

or omission which occurs prior to the date at which the denunciation becomes effective, nor shall denunciation prejudice in any way the continued consideration of any matter which is already under consideration by the Committee prior to the date at which the denunciation becomes effective.

4. Following the date at which the denunciation of a State Party becomes effective, the Committee shall not commence consideration of any new matter regarding that State.

III. TEXT OF THE PENDING PARAGRAPHS AND ARTICLES OF THE DRAFT INTERNATIONAL CONVENTION ON THE PROTECTION OF THE RIGHTS OF ALL MIGRANT WORKERS AND MEMBERS OF THEIR FAMILIES ADOPTED ON SECOND READING BY THE WORKING GROUP DURING THE SPRING OF 1990

Article 50

1. In the case of death of a migrant worker or dissolution of marriage, the State of employment shall favourably consider granting family members of that migrant worker residing in that State on the basis of family reunion an authorization to stay; the State of employment shall take into account the length of time for which they have already resided in that State.

2. Members of the family to whom such authorization is not granted shall be allowed before departure a reasonable period of time in order to enable them to settle their affairs in the State of employment.

3. The provisions of paragraphs 1 and 2 of this article may not be interpreted as adversely affecting any right to stay and work otherwise granted to such family members by the legislation of the State of employment or by treaties applicable to that State.

Article 61

...

3. Subject to bilateral or multilateral agreements in force for them States Parties concerned shall endeavour to enable project-tied workers to remain adequately protected by the social security systems of their States of origin or habitual residence during their engagement in the project. The States Parties concerned shall take appropriate measures with the aim of avoiding any denial of rights or duplications of payments in this respect.

4. Without prejudice to the provisions of article 47 of the present Convention and to specific bilateral or multilateral agreements, States Parties concerned shall permit payment of the earnings of project-tied workers in their State of origin or habitual residence.

Alternatives for Article 72, paragraph 8

8. [The members of the Committee shall receive emoluments from United Nations resources on such terms and conditions as the General Assembly may decide.]

OR

[States Parties shall be responsible for:

(a) The expenses of the members of the Committee while they are performing Committee duties; and

(b) Expenses incurred in connection with the holding of meetings of States Parties and of the Committee, including reimbursement to the United Nations for any expenses, such as the cost of staff and facilities, incurred by the United Nations pursuant to paragraph 7 of this article.]

Article 87

A State ratifying or acceding to the present Convention may not exclude the application of any part of it, or without prejudice to article 3, exclude any particular category of migrant workers from its application.

Article 88

...

3. Such a denunciation shall not have the effect of releasing the State Party from its obligations under the present Convention in regard to any act or omission which occurs prior to the date at which the denunciation becomes effective, nor shall denunciation prejudice in any way the continued consideration of any matter which is already under consideration by the Committee prior to the date at which the denunciation becomes effective.

4. Following the date at which the denunciation of a State Party becomes effective, the Committee shall not commence consideration of any new matter regarding that State.

IV. CONSIDERATION OF THE TECHNICAL REVIEW OF THE DRAFT CONVENTION

79. Following the adoption of the pending provisions, the Working Group undertook consideration of the technical review of the draft Convention from its 4th to its 14th meetings, held from 30 May to 6 June 1990.

80. The Working Group decided to change the numbering of some of the articles of Part IX of the draft Convention. Thus article 92 was renumbered article 85 and articles 85 to 91 were renumbered articles 86 to 92.

81. At its 14th meeting, held on 6 June 1990, the Working Group adopted the text of the draft Convention on second reading, as it had emerged from the Working Group's consideration of the technical review.

82. Several representatives made statements welcoming the adoption of a final text of the draft Convention and expressing their general satisfaction with the text as it was finally adopted by the Working Group.

83. Some representatives expressed the view that they would have liked the technical review to have been carried out in a manner that would have facilitated the task of the Working Group to a greater degree.

84. It was observed that the Working Group would have benefited if the compilation of comments had been available considerably earlier and if the documentation provided to it had been more comprehensive in comparing the standards incorporated in the draft Convention and the language used therein with the standards and language of existing binding United Nations instruments. The lack of input from some relevant organizations, most notably the International Labour Office, to the technical review was noted. The representative of Australia, supported by several other representatives including those of the United States and Norway, stated that the Secretary-General should give more priority to the preparation of such technical reviews, not only because it was important to elaborate the best possible instruments from a technical viewpoint but also to ensure the maintenance of a coherent system of international human rights instruments.

85. While supporting the statement made by the representative of Australia, the representative of the Netherlands expressed his gratitude to the Chairman and the Vice-Chairman for having led the Working Group through the process of a technical review in a fast and most efficient way. Given the circumstances, the Working Group had done everything possible to improve the text. Nevertheless, the technical review had been too limited in nature for the reasons already expressed. He also felt obliged to state some doubts about the way in which the Secretary-General, owing to the limited resources available, had been able to support the work of the Working Group during the present session.

86. The representative of the Federal Republic of Germany nevertheless reiterated the general concerns regarding the draft Convention which his delegation had expressed on a number of occasions during the second reading.

87. The representative of Norway further expressed his appreciation to the Chairman, Vice-Chairman and Secretary of the Working Group for the considerable work they had undertaken to counter-balance the situation described by the delegation of Australia.

88. The representative of Morocco, while sharing the view of the delegation of Australia on some of the criticisms, stated that her own delegation had also criticized the manner in which the technical review had been handled. However, she felt that such criticism might be misinterpreted as opening the door to a request for a new technical review of the draft Convention. She said that the criticism

should not be directed in any way towards the Secretariat of the Working Group but should be levelled against the way in which the Secretary-General had provided support to the Working Group.

89. The Working Group requested the Chairman to request the Secretary-General of the United Nations to send, in accordance with General Assembly resolution 44/155 of 15 December 1989, the results of the technical review and, in particular, the text of the draft Convention as finally adopted and annexed to the present report to all Governments as soon as possible so that the General Assembly might take a decision during its forty-fifth session in 1990.

90. At its 16th meeting held on 8 June 1990, the Working Group adopted the present report.

91. The final text of the draft Convention as adopted by the Working Group is annexed to the present report.

ANNEX

Draft International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

Preamble

The States Parties to the present Convention,

Taking into account the principles embodied in the basic instruments of the United Nations concerning human rights, in particular the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child,

Taking into account also the principles and standards set forth in the relevant instruments elaborated within the framework of the International Labour Organisation, especially the Conventions concerning Migration for Employment (No. 97) and Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers (No. 143), the Recommendations concerning Migration for Employment (No. 86) and Migrant Workers (No. 151), and the Conventions concerning Forced Labour (No. 29) and the Abolition of Forced Labour (No. 105),

Reaffirming the importance of the principles contained in the Convention against Discrimination in Education of the United Nations Educational, Scientific and Cultural Organization,

Recalling the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Declaration of the Fourth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, the Code of Conduct for Law Enforcement Officials, and the Slavery Conventions,

Recalling also that one of the objectives of the International Labour Organisation, as stated in its Constitution, is the protection of the interests of workers when employed in countries other than their own, as well as the expertise and experience of the said Organisation in matters related to migrant workers and members of their families,

Recognizing the importance of the work carried out in connection with migrant workers and members of their families in various organs of the United Nations system, in particular in the Commission on Human Rights and the Commission for Social Development, and in the Food and Agriculture Organization of the United Nations, the United Nations Educational, Scientific and Cultural Organization and the World Health Organization and in other international organizations,

Recognizing also the progress made by certain States on a regional or bilateral basis towards the protection of the rights of migrant workers and members

of their families as well as the importance and usefulness of bilateral and multilateral agreements in this field,

Realizing the importance and extent of the migration phenomenon, which involves millions of people and affects a large number of States in the international community,

Aware of the impact of the flows of migrant workers on States and people concerned, and desiring to establish norms which may contribute to harmonize the attitudes of States through the acceptance of basic principles concerning the treatment of migrant workers and members of their families,

Considering the situation of vulnerability in which migrant workers and members of their families frequently find themselves owing, among other things, to their absence from the State of origin and to the difficulties they may encounter arising from their presence in the State of employment,

Convinced that the rights of migrant workers and members of their families have not been sufficiently recognized everywhere and therefore require appropriate international protection,

Taking into account the fact that migration is often the cause of serious problems for the members of the families of migrant workers as well as for the workers themselves, in particular because of the scattering of the family,

Bearing in mind that the human problems involved in migration are even more serious in the case of irregular migration and convinced therefore that appropriate action should be encouraged in order to prevent and eliminate clandestine movements and trafficking in migrant workers, while at the same time assuring the protection of their fundamental human rights,

Considering that workers who are non-documented or in an irregular situation are frequently employed under less favourable conditions of work than other workers and that certain employers find this an inducement to seek such labour in order to reap the benefits of unfair competition,

Considering also that recourse to the employment of migrant workers who are in an irregular situation will be discouraged if the fundamental human rights of all migrant workers are more widely recognized and, moreover, that granting certain additional rights to migrant workers and members of their families in a regular situation will encourage all migrants and employers to respect and comply with the laws and procedures established by the States concerned,

Convinced therefore of the need to bring about the international protection of the rights of all migrant workers and members of their families, reaffirming and establishing basic norms in a comprehensive convention which could be applied universally,

Have agreed on the following articles:

PART I

Scope and definitions

Article 1

1. The present Convention is applicable, except as otherwise provided hereafter, to all migrant workers and members of their families without distinction of any kind such as sex, race, colour, language, religion or conviction, political or other opinion, national, ethnic or social origin, nationality, age, economic position, property, marital status, birth or other status.

2. The present Convention shall apply during the entire migration process of migrant workers and members of their families, which comprises preparation for migration, departure, transit and the entire period of stay and remunerated activity in the State of employment as well as return to the State of origin or the State of habitual residence.

Article 2

For the purposes of the present Convention:

1. The term "migrant worker" refers to a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national.

2. (a) The term "frontier worker" refers to a migrant worker who retains his or her habitual residence in a neighbouring State to which he or she normally returns every day or at least once a week;

(b) The term "seasonal worker" refers to a migrant worker whose work by its character is dependent on seasonal conditions and is performed only during part of the year;

(c) The term "seafarer", which includes a fisherman, refers to a migrant worker employed on board a vessel registered in a State of which he or she is not a national;

(d) The term "worker on an offshore installation" refers to a migrant worker employed on an offshore installation that is under the jurisdiction of a State of which he or she is not a national;

(e) The term "itinerant worker" refers to a migrant worker who, having his or her habitual residence in one State, has to travel to another State or States for short periods, owing to the nature of his or her occupation;

(f) The term "project-tied worker" refers to a migrant worker admitted to a State of employment for a defined period to work solely on a specific project being carried out in that State by his or her employer;

(g) The term "specified-employment worker" refers to a migrant worker:

(i) Who has been sent by his or her employer for a restricted and defined period of time to a State of employment to undertake a specific assignment or duty; or

(ii) Who engages for a restricted and defined period of time in work that requires professional, commercial, technical or other highly specialized skill; or

(iii) Who, upon the request of his or her employer in the State of employment, engages for a restricted and defined period of time in work whose nature is transitory or brief;

and who is required to depart from the State of employment either at the expiration of his or her authorized period of stay, or earlier if he or she no longer undertakes that specific assignment or duty or engages in that work;

(h) The term "self-employed worker" refers to a migrant worker who is engaged in a remunerated activity otherwise than under a contract of employment and who earns his or her living through this activity normally working alone or together with members of her or her family, and to any other migrant worker recognized as self-employed by applicable legislation of the State of employment or bilateral or multilateral agreements.

Article 3

The present Convention shall not apply to:

(a) Persons sent or employed by international organizations and agencies or persons sent or employed by a State outside its territory to perform official functions, whose admission and status are regulated by general international law or by specific international agreements or conventions;

(b) Persons sent or employed by a State or on its behalf outside its territory who participate in development programmes and other co-operation programmes, whose admission and status are regulated by agreement with the State of employment and who, in accordance with that agreement, are not considered migrant workers;

(c) Persons taking up residence in a State different from their State of origin as investors;

(d) Refugees and stateless persons, unless such application is provided for in the relevant national legislation of, or international instruments in force for, the State Party concerned;

(e) Students and trainees;

(f) Seafarers and workers on an offshore installation who have not been admitted to take up residence and engage in a remunerated activity in the State of employment.

Article 4

For the purposes of the present Convention the term "members of the family" refers to persons married to migrant workers or having with them a relationship that, according to applicable law, produces effects equivalent to marriage, as well as their dependent children and other dependent persons who are recognized as members of the family by applicable legislation or applicable bilateral or multilateral agreements between the States concerned.

Article 5

For the purposes of the present Convention, migrant workers and members of their families:

(a) Are considered as documented or in a regular situation if they are authorized to enter, to stay and to engage in a remunerated activity in the State of employment pursuant to the law of that State and to international agreements to which that State is a Party;

(b) Are considered as non-documented or in an irregular situation if they do not comply with the conditions provided for in subparagraph (a) of this article.

Article 6

For the purposes of the present Convention:

(a) The term "State of origin" means the State of which the person concerned is a national;

(b) The term "State of employment" means a State where the migrant worker is to be engaged, is engaged or has been engaged in a remunerated activity, as the case may be;

(c) The term "State of transit" means any State through which the person concerned passes on any journey to the State of employment or from the State of employment to the State of origin or the State of habitual residence.

PART II

Non-discrimination with respect to rights

Article 7

States Parties undertake, in accordance with the international instruments concerning human rights, to respect and to ensure to all migrant workers and members of their families within their territory or subject to their jurisdiction the rights provided for in the present Convention without distinction of any kind such as sex, race, colour, language, religion or conviction, political or other opinion, national, ethnic or social origin, nationality, age, economic position, property, marital status, birth or other status.

PART III

Human rights of all migrant workers and members of their families

Article 8

1. Migrant workers and members of their families shall be free to leave any State, including their State of origin. This right shall not be subject to any restrictions except those that are provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in this Part of the Convention.

2. Migrant workers and members of their families shall have the right at any time to enter and remain in their State of origin.

Article 9

The right to life of migrant workers and members of their families shall be protected by law.

Article 10

No migrant worker or member of his or her family shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 11

1. No migrant worker or member of his or her family shall be held in slavery or servitude.

2. No migrant worker or member of his or her family shall be required to perform forced or compulsory labour.

3. Paragraph 2 of this article shall not be held to preclude, in States where imprisonment with hard labour may be imposed as a punishment for a crime, the performance of hard labour in pursuance of a sentence to such punishment by a competent court.

4. For the purpose of this article the term "forced or compulsory labour" shall not include:

(a) Any work or service not referred to in paragraph 3 of this article normally required of a person who is under detention in consequence of a lawful order of a court or of a person during conditional release from such detention;

(b) Any service exacted in cases of emergency or calamity threatening the life or well-being of the community;

(c) Any work or service that forms part of normal civil obligations so far as it is imposed also on citizens of the State concerned.

Article 12

1. Migrant workers and members of their families shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of their choice and freedom either individually or in community with others and in public or private to manifest their religion or belief in worship, observance, practice and teaching.

2. Migrant workers and members of their families shall not be subject to coercion that would impair their freedom to have or to adopt a religion or belief of their choice.

3. Freedom to manifest one's religion or belief may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others.

4. States Parties to the present Convention undertake to have respect for the liberty of parents, at least one of whom is a migrant worker, and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

Article 13

1. Migrant workers and members of their families shall have the right to hold opinions without interference.

2. Migrant workers and members of their families shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art or through any other media of their choice.

3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

(a) For respect of the rights or reputation of others;

(b) For the protection of the national security of the States concerned or of public order (ordre public) or of public health or morals;

(c) For the purpose of preventing any propaganda for war;

(d) For the purpose of preventing any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence.

Article 14

No migrant worker or member of his or her family shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home,

correspondence or other communications, or to unlawful attacks on his or her honour and reputation. Each migrant worker and member of his or her family shall have the right to the protection of the law against such interference or attacks.

Article 15

No migrant worker or member of his or her family shall be arbitrarily deprived of property, whether owned individually or in association with others. Where, under the legislation in force in the State of employment, the assets of a migrant worker or a member of his or her family are expropriated in whole or in part, the person concerned shall have the right to fair and adequate compensation.

Article 16

1. Migrant workers and members of their families shall have the right to liberty and security of person.

2. Migrant workers and members of their families shall be entitled to effective protection by the State against violence, physical injury, threats and intimidation, whether by public officials or by private individuals, groups or institutions.

3. Any verification by law enforcement officials of the identity of migrant workers or members of their families shall be carried out in accordance with procedures established by law.

4. Migrant workers and members of their families shall not be subjected individually or collectively to arbitrary arrest or detention; they shall not be deprived of their liberty except on such grounds and in accordance with such procedures as are established by law.

5. Migrant workers and members of their families who are arrested shall be informed at the time of arrest as far as possible in a language they understand of the reasons for their arrest and they shall be promptly informed in a language they understand of any charges against them.

6. Migrant workers and members of their families who are arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that while awaiting trial they shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings and, should the occasion arise, for the execution of the judgement.

7. When a migrant worker or a member of his or her family is arrested or committed to prison or custody pending trial or is detained in any other manner:

(a) The consular or diplomatic authorities of his or her State of origin or of a State representing the interests of that State shall, if he or she so requests, be informed without delay of his or her arrest or detention and of the reasons therefor;

(b) The person concerned shall have the right to communicate with the said authorities. Any communication by the person concerned to the said authorities shall be forwarded without delay, and he or she shall also have the right to receive communications sent by the said authorities without delay;

(c) The person concerned shall be informed without delay of this right and of rights deriving from relevant treaties, if any, applicable between the States concerned, to correspond and to meet with representatives of the said authorities and to make arrangements with them for his or her legal representation.

8. Migrant workers and members of their families who are deprived of their liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of their detention and order their release if the detention is not lawful. When they attend such proceedings, they shall have the assistance, if necessary without cost to them, of an interpreter, if they cannot understand or speak the language used.

9. Migrant workers and members of their families who have been victims of unlawful arrest or detention shall have an enforceable right to compensation.

Article 17

1. Migrant workers and members of their families who are deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person and for their cultural identity.

2. Accused migrant workers and members of their families shall, save in exceptional circumstances, be separated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons. Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication.

3. Any migrant worker or a member of his or her family who is detained in a State of transit or in a State of employment for violation of provisions relating to migration, shall be held, in so far as practicable, separately from convicted persons or persons detained pending trial.

4. During any period of imprisonment in pursuance of a sentence imposed by a court of law, the essential aim of the treatment of a migrant worker or a member of his or her family shall be his or her reformation and social rehabilitation. Juvenile offenders shall be separated from adults and be accorded treatment appropriate to their age and legal status.

5. During detention or imprisonment, migrant workers and members of their families shall enjoy the same rights as nationals to visits by members of their families.

6. Whenever a migrant worker is deprived of his or her liberty, the competent authorities of the State concerned shall pay attention to the problems that may be posed for members of his or her family, in particular for spouses and minor children.

7. Migrant workers and members of their families who are subjected to any form of detention or imprisonment in accordance with the law in force in the State of employment or in the State of transit shall enjoy the same rights as nationals of those States who are in the same situation.

8. If a migrant worker or a member of his or her family is detained for the purpose of verifying any infraction of provisions related to migration, he or she shall not bear any costs arising therefrom.

Article 18

1. Migrant workers and members of their families shall have the right to equality with nationals of the State concerned before the courts and tribunals. In the determination of any criminal charge against them or of their rights and obligations in a suit of law, they shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.

2. Migrant workers and members of their families who are charged with a criminal offence shall have the right to be presumed innocent until proven guilty according to law.

3. In the determination of any criminal charge against them, migrant workers and members of their families shall be entitled to the following minimum guarantees:

(a) To be informed promptly and in detail in a language they understand of the nature and cause of the charge against them;

(b) To have adequate time and facilities for the preparation of their defence and to communicate with counsel of their own choosing;

(c) To be tried without undue delay;

(d) To be tried in their presence and to defend themselves in person or through legal assistance of their own choosing; to be informed, if they do not have legal assistance, of this right; and to have legal assistance assigned to them, in any case where the interests of justice so require and without payment by them in any such case if they do not have sufficient means to pay for it;

(e) To examine or have examined the witnesses against them and to obtain the attendance and examination of witnesses on their behalf under the same conditions as witnesses against them;

(f) To have the free assistance of an interpreter if they cannot understand or speak the language used in court;

(g) Not to be compelled to testify against themselves or to confess guilt.

4. In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.

5. Migrant workers and members of their families convicted of a crime shall have the right to their conviction and sentence being reviewed by a higher tribunal according to law.

6. When a migrant worker or member of his or her family has, by a final decision, been convicted of a criminal offence and when subsequently his or her conviction has been reversed or he or she has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to that person.

7. No migrant worker or member of his or her family shall be liable to be tried or punished again for an offence for which he or she has already been finally convicted or acquitted in accordance with the law and penal procedure of the State concerned.

Article 19

1. No migrant worker or member of his or her family shall be held guilty of any criminal offence on account of any act or omission that did not constitute a criminal offence under national or international law at the time when the criminal offence was committed, nor shall a heavier penalty be imposed than the one that was applicable at the time when it was committed. If, subsequent to the commission of the offence, provision is made by law for the imposition of a lighter penalty, he or she shall benefit thereby.

2. Humanitarian considerations related to the status of a migrant worker, in particular with respect to his or her right of residence or work, should be taken into account in imposing a sentence for a criminal offence committed by a migrant worker or a member of his or her family.

Article 20

1. No migrant worker or member of his or her family shall be imprisoned merely on the ground of failure to fulfil a contractual obligation.

2. No migrant worker or member of his or her family shall be deprived of his or her authorization of residence or work permit or expelled merely on the ground of failure to fulfil an obligation arising out of a work contract unless fulfilment of that obligation constitutes a condition for such authorization or permit.

Article 21

It shall be unlawful for anyone, other than a public official duly authorized by law, to confiscate, destroy or attempt to destroy identity documents, documents authorizing entry to or stay, residence or establishment in the national territory or work permits. No authorized confiscation of such documents shall take place without delivery of a detailed receipt. In no case shall it be permitted to destroy the passport or equivalent document of a migrant worker or a member of his or her family.

Article 22

1. Migrant workers and members of their families shall not be subject to measures of collective expulsion. Each case of expulsion shall be examined and decided individually.

2. Migrant workers and members of their families may be expelled from the territory of a State Party only in pursuance of a decision taken by the competent authority in accordance with law.

3. The decision shall be communicated to them in a language they understand. Upon their request where not otherwise mandatory, the decision shall be communicated to them in writing and, save in exceptional circumstances on account of national security, the reasons for the decision likewise stated. The persons concerned shall be informed of these rights before or at the latest at the time the decision is rendered.

4. Except where a final decision is pronounced by a judicial authority, the person concerned shall have the right to submit the reason against his or her expulsion and to have his or her case reviewed by the competent authority, unless compelling reasons of national security require otherwise. Pending such review, the person concerned shall have the right to seek a stay of the decision of expulsion.

5. If a decision of expulsion that has already been executed is subsequently annulled, the person concerned shall have the right to seek compensation according to law and the earlier decision shall not be used to prevent him or her from re-entering the State concerned.

6. In case of expulsion, the person concerned shall have a reasonable opportunity before or after departure to settle any claims for wages and other entitlements due to him or her and any pending liabilities.

7. Without prejudice to the execution of a decision of expulsion, a migrant worker or a member of his or her family who is subject to such a decision may seek entry into a State other than his or her State of origin.

8. In case of expulsion of a migrant worker or a member of his or her family the costs of expulsion shall not be borne by him or her. The person concerned may be required to pay his or her own travel costs.

9. Expulsion from the State of employment shall not in itself prejudice any rights of a migrant worker or a member of his or her family acquired in accordance with the law of that State, including the right to receive wages and other entitlements due to him or her.

Article 23

Migrant workers and members of their families shall have the right to have recourse to the protection and assistance of the consular or diplomatic authorities

of their State of origin or of a State representing the interests of that State whenever the rights recognized in the present Convention are impaired. In particular, in case of expulsion, the person concerned shall be informed of this right without delay and the authorities of the expelling State shall facilitate the exercise of such right.

Article 24

Every migrant worker and every member of his or her family shall have the right to recognition everywhere as a person before the law.

Article 25

1. Migrant workers shall enjoy treatment not less favourable than that which applies to nationals of the State of employment in respect of remuneration and:

(a) Other conditions of work, that is to say overtime, hours of work, weekly rest, holidays with pay, safety, health, termination of the employment relationship and any other conditions of work which, according to national law and practice, are covered by this term;

(b) Other terms of employment, that is to say minimum age of employment, restriction on home work and any other matters which, according to national law and practice, are considered a term of employment.

2. It shall not be lawful to derogate in private contracts of employment from the principle of equality of treatment referred to in paragraph 1 of this article.

3. States Parties shall take all appropriate measures to ensure that migrant workers are not deprived of any rights derived from this principle by reason of any irregularity in their stay or employment. In particular, employers shall not be relieved of any legal or contractual obligations, nor shall their obligations be limited in any manner by reason of any such irregularity.

Article 26

1. States Parties recognize the right of migrant workers and members of their families:

(a) To take part in meetings and activities of trade unions and of any other associations established in accordance with law, with a view to protecting their economic, social, cultural and other interests, subject only to the rules of the organization concerned;

(b) To join freely any trade union and any such association as aforesaid, subject only to the rules of the organization concerned;

(c) To seek the aid and assistance of any trade union and of any such association as aforesaid.

2. No restrictions may be placed on the exercise of these rights other than those that are prescribed by law and which are necessary in a democratic society in the interests of national security, public order (ordre public) or the protection of the rights and freedoms of others.

Article 27

1. With respect to social security, migrant workers and members of their families shall enjoy in the State of employment the same treatment granted to nationals in so far as they fulfil the requirements provided for by the applicable legislation of that State and the applicable bilateral and multilateral treaties. The competent authorities of the State of origin and the State of employment can at any time establish the necessary arrangements to determine the modalities of application of this norm.

2. Where the applicable legislation does not allow migrant workers and members of their families a benefit, the States concerned shall examine the possibility of reimbursing interested persons the amount of contributions made by them with respect to that benefit on the basis of the treatment granted to nationals who are in similar circumstances.

Article 28

Migrant workers and members of their families shall have the right to receive any medical care that is urgently required for the preservation of their life or the avoidance of irreparable harm to their health on the basis of equality of treatment with nationals of the State concerned. Such emergency medical care shall not be refused to them by reason of any irregularity with regard to stay or employment.

Article 29

Each child of a migrant worker shall have the right to a name, to registration of birth and to a nationality.

Article 30

Each child of a migrant worker shall have the basic right of access to education on the basis of equality of treatment with nationals of the State concerned. Access to public pre-school educational institutions or schools shall not be refused or limited by reason of the irregular situation with respect to stay or employment of either parent or by reason of the irregularity of the child's stay in the State of employment.

Article 31

1. States Parties shall ensure respect for the cultural identity of migrant workers and members of their families and shall not prevent them from maintaining their cultural links with their State of origin.

2. States Parties may take appropriate measures to assist and encourage efforts in this respect.

Article 32

Upon the termination of their stay in the State of employment, migrant workers and members of their families shall have the right to transfer their earnings and savings and, in accordance with the applicable legislation of the States concerned, their personal effects and belongings.

Article 33

1. Migrant workers and members of their families shall have the right to be informed by the State of origin, the State of employment or the State of transit as the case may be concerning:

(a) Their rights arising out of the present Convention;

(b) The conditions of admission, their rights and obligations under the law and practice of the State concerned and such other matters as will enable them to comply with administrative or other formalities in that State.

2. States Parties shall take all measures they deem appropriate to disseminate the said information or to ensure that it is provided by employers, trade unions or other appropriate bodies or institutions. As appropriate, they shall co-operate with other States concerned.

3. Such adequate information shall be provided upon request to migrant workers and members of their families, free of charge, and, as far as possible, in a language they are able to understand.

Article 34

Nothing in this Part of the present Convention shall have the effect of relieving migrant workers and the members of their families from either the obligation to comply with the laws and regulations of any State of transit and the State of employment or the obligation to respect the cultural identity of the inhabitants of such States.

Article 35

Nothing in this Part of the present Convention shall be interpreted as implying the regularization of the situation of migrant workers or members of their families who are non-documented or in an irregular situation or any right to such regularization of their situation, nor shall it prejudice the measures intended to ensure sound and equitable conditions for international migration as provided in Part VI.

PART IV

Other rights of migrant workers and members of their families who are documented or in a regular situation

Article 36

Migrant workers and members of their families who are documented or in a regular situation in the State of employment shall enjoy the rights set forth in this Part of the present Convention in addition to those set forth in Part III.

Article 37

Before their departure, or at the latest at the time of their admission to the State of employment, migrant workers and members of their families shall have the right to be fully informed by the State of origin or the State of employment, as appropriate, of all conditions applicable to their admission and particularly those concerning their stay and the remunerated activities in which they may engage as well as of the requirements they must satisfy in the State of employment and the authority to which they must address themselves for any modification of those conditions.

Article 38

1. States of employment shall make every effort to authorize migrant workers and members of their families to be temporarily absent without effect upon their authorization to stay or to work, as the case may be. In doing so, States of employment shall take into account the special needs and obligations of migrant workers and members of their families, in particular in their States of origin.

2. Migrant workers and members of their families shall have the right to be fully informed of the terms on which such temporary absences are authorized.

Article 39

1. Migrant workers and members of their families shall have the right to liberty of movement in the territory of the State of employment and freedom to choose their residence there.

2. The rights mentioned in paragraph 1 of this article shall not be subject to any restrictions except those that are provided by law, are necessary to protect national security, public order (ordre public), public health or morals, or the rights and freedoms of others and are consistent with the other rights recognized in the present Convention.

Article 40

1. Migrant workers and members of their families shall have the right to form associations and trade unions in the State of employment for the promotion and protection of their economic, social, cultural and other interests.

2. No restrictions may be placed on the exercise of this right other than those that are prescribed by law and are necessary in a democratic society in the interests of national security, public order (ordre public) or the protection of the rights and freedoms of others.

Article 41

1. Migrant workers and members of their families shall have the right to participate in public affairs of their State of origin and to vote and to be elected at elections of that State, in accordance with its legislation.

2. The States concerned shall, as appropriate and in accordance with their legislation, facilitate the exercise of these rights.

Article 42

1. States Parties shall consider the establishment of procedures or institutions through which account may be taken, both in States of origin and in States of employment, of special needs, aspirations and obligations of migrant workers and members of their families and shall envisage, as appropriate, the possibility for migrant workers and members of their families to have their freely chosen representatives in those institutions.

2. States of employment shall facilitate, in accordance with their national legislation, the consultation or participation of migrant workers and members of their families in decisions concerning the life and administration of local communities.

3. Migrant workers may enjoy political rights in the State of employment if that State, in the exercise of its sovereignty, grants them such rights.

Article 43

1. Migrant workers shall enjoy equality of treatment with nationals of the State of employment in relation to:

(a) Access to educational institutions and services subject to the admission requirements and other regulations of the institutions and services concerned;

(b) Access to vocational guidance and placement services;

(c) Access to vocational training and retraining facilities and institutions;

(d) Access to housing, including social housing schemes, and protection against exploitation in respect of rents;

(e) Access to social and health services, provided that the requirements for participation in the respective schemes are met;

(f) Access to co-operatives and self-managed enterprises without implying a change of their migration status and subject to the rules and regulations of the bodies concerned;

(g) Access to and participation in cultural life.

2. States Parties shall promote conditions to ensure effective equality of treatment to enable migrant workers to enjoy the rights mentioned in paragraph 1 of this article whenever the terms of their stay as authorized by the State of employment, meet the appropriate requirements.

3. States of employment shall not prevent an employer of migrant workers from establishing housing or social or cultural facilities for them. Subject to article 70 of the present Convention, a State of employment may make the establishment of such facilities subject to the requirements generally applied in that State concerning their installation.

Article 44

1. States Parties, recognizing that the family is the natural and fundamental group unit of society and is entitled to protection by society and the State, shall take appropriate measures to ensure the protection of the unity of the families of migrant workers.

2. States Parties shall take measures that they deem appropriate and that fall within their competence to facilitate the reunification of migrant workers with their spouses or persons who have with the migrant worker a relationship that, according to applicable law, produces effects equivalent to marriage, as well as with their minor dependent unmarried children.

3. States of employment, on humanitarian grounds, shall favourably consider granting equal treatment, as set forth in paragraph 2 of this article, to other family members of migrant workers.

Article 45

1. Members of the family of migrant workers shall, in the State of employment, enjoy equality of treatment with nationals of that State in relation to:

(a) Access to educational institutions and services, subject to the admission requirements and other regulations of the institutions and services concerned;

(b) Access to vocational guidance and training institutions and services, provided that requirements for participation are met;

(c) Access to social and health services, provided that requirements for participation in the respective schemes are met;

(d) Access to and participation in cultural life.

2. States of employment shall pursue a policy, where appropriate in collaboration with the States of origin, aimed at facilitating the integration of children of migrant workers in the local school system, particularly in respect of teaching them the local language.

3. States of employment shall endeavour to facilitate for the children of migrant workers the teaching of their mother tongue and culture and, in this regard, States of origin shall collaborate whenever appropriate.

4. States of employment may provide special schemes of education in the mother tongue of children of migrant workers, if necessary in collaboration with the States of origin.

Article 46

Migrant workers and members of their families shall, subject to the applicable legislation of the States concerned, as well as relevant international agreements and the obligations of the States concerned arising out of their participation in customs unions, enjoy exemption from import and export duties and taxes in respect of their personal and household effects as well as the equipment necessary to engage in the remunerated activity for which they were admitted to the State of employment:

(a) Upon departure from the State of origin or State of habitual residence;

(b) Upon initial admission to the State of employment;

(c) Upon final departure from the State of employment;

(d) Upon final return to the State of origin or State of habitual residence.

Article 47

1. Migrant workers shall have the right to transfer their earnings and savings, in particular those funds necessary for the support of their families, from the State of employment to their State of origin or any other State. Such transfers shall be made in conformity with procedures established by applicable legislation of the State concerned and in conformity with applicable international agreements.

2. States concerned shall take appropriate measures to facilitate such transfers.

Article 48

1. Without prejudice to applicable double taxation agreements, migrant workers and members of their families shall, in the matter of earnings in the State of employment:

(a) Not be liable to taxes, duties or charges of any description higher or more onerous than those imposed on nationals in similar circumstances;

(b) Be entitled to deductions or exemptions from taxes of any description and to any tax allowances applicable to nationals in similar circumstances, including tax allowances for dependent members of their families.

2. States Parties shall endeavour to adopt appropriate measures to avoid double taxation of the earnings and savings of migrant workers and members of their families.

Article 49

1. Where separate authorizations to reside and to engage in employment are required by national legislation, the States of employment shall issue to migrant workers authorization of residence for at least the same period of time as their authorization to engage in remunerated activity.

2. Migrant workers who in the State of employment are allowed freely to choose their remunerated activity shall neither be regarded as in an irregular situation nor shall they lose their authorization of residence by the mere fact of the termination of their remunerated activity prior to the expiration of their work permits or similar authorizations.

3. In order to allow migrant workers referred to in paragraph 2 of this article sufficient time to find alternative remunerated activities, the authorization of residence shall not be withdrawn at least for a period corresponding to that during which they may be entitled to unemployment benefits.

Article 50

1. In the case of death of a migrant worker or dissolution of marriage, the State of employment shall favourably consider granting family members of that migrant worker residing in that State on the basis of family reunion an authorization to stay; the State of employment shall take into account the length of time they have already resided in that State.

2. Members of the family to whom such authorization is not granted shall be allowed before departure a reasonable period of time in order to enable them to settle their affairs in the State of employment.

3. The provisions of paragraphs 1 and 2 of this article may not be interpreted as adversely affecting any right to stay and work otherwise granted to such family members by the legislation of the State of employment or by bilateral and multilateral treaties applicable to that State.

Article 51

Migrant workers who in the State of employment are not permitted freely to choose their remunerated activity shall neither be regarded as in an irregular situation nor shall they lose their authorization of residence by the mere fact of the termination of their remunerated activity prior to the expiration of their work permit, except where the authorization of residence is expressly dependent upon the specific remunerated activity for which they were admitted. Such migrant workers

shall have the right to seek alternative employment, participation in public work schemes and retraining during the remaining period of their authorization to work, subject to such conditions and limitations as are specified in the authorization to work.

Article 52

1. Migrant workers in the State of employment shall have the right freely to choose their remunerated activity, subject to the following restrictions or conditions.

2. For any migrant worker a State of employment may:

(a) Restrict access to limited categories of employment, functions, services or activities where this is necessary in the interests of this State and provided for by national legislation;

(b) Restrict free choice of remunerated activity in accordance with its legislation concerning recognition of occupational qualifications acquired outside its territory. However, States Parties concerned shall endeavour to provide for recognition of such qualifications.

3. For migrant workers whose permission to work is limited in time, a State of employment may also:

(a) Make the right freely to choose their remunerated activities subject to the condition that the migrant worker has resided lawfully in its territory for the purpose of remunerated activity for a period of time prescribed in its national legislation that should not exceed two years;

(b) Limit access by a migrant worker to remunerated activities in pursuance of a policy of granting priority to its nationals or to persons who are assimilated to them for these purposes by virtue of legislation or bilateral or multilateral agreements. Any such limitation shall cease to apply to a migrant worker who has resided lawfully in its territory for the purpose of remunerated activity for a period of time prescribed in its national legislation that should not exceed five years.

4. States of employment shall prescribe the conditions under which a migrant worker who has been admitted to take up employment may be authorized to engage in work on his or her own account and vice versa. Account shall be taken of the period during which the worker has already been lawfully in the State of employment.

Article 53

1. Members of a migrant worker's family who have themselves an authorization of residence or admission that is without limit of time or is automatically renewable shall be permitted freely to choose their remunerated activity under the same conditions as are applicable to the said migrant worker in accordance with article 52 of the present Convention.

2. With respect to members of a migrant worker's family who are not permitted freely to choose their remunerated activity, States Parties shall consider favourably granting them priority in obtaining permission to engage in a remunerated activity over other workers who seek admission to the State of employment, subject to applicable bilateral and multilateral agreements.

Article 54

1. Without prejudice to the terms of their authorization of residence or their permission to work and the rights provided for in articles 25 and 27 of the present Convention, migrant workers shall enjoy equality of treatment with nationals of the State of employment in respect of:

(a) Protection against dismissal;

(b) Unemployment benefits;

(c) Access to public work schemes intended to combat unemployment;

(d) Access to alternative employment in the event of loss of work or termination of other remunerated activity subject to article 52 of the present Convention.

2. If a migrant worker claims that the terms of his or her work contract have been violated by his or her employer, he or she shall have the right to address his or her case to the competent authorities of the State of employment, on terms provided for in article 18, paragraph 1, of the present Convention.

Article 55

Migrant workers who have been granted permission to engage in a remunerated activity, subject to the conditions attached to such permission, shall be entitled to equality of treatment with nationals of the State of employment in the exercise of that remunerated activity.

Article 56

1. Migrant workers and members of their families referred to in this Part of the present Convention may not be expelled from a State of employment, except for reasons defined in the national legislation of that State, and subject to the safeguards established in Part III.

2. Expulsion shall not be resorted to for the purpose of depriving a migrant worker or a member of his or her family of the rights arising out of the authorization of residence and the work permit.

3. In considering whether to expel a migrant worker or a member of his or her family, account should be taken of humanitarian considerations and of the length of time that the person concerned has already resided in the State of employment.

PART V

Provisions applicable to particular categories of migrant workers and members of their families

Article 57

The particular categories of migrant workers and members of their families specified in this Part of the present Convention who are documented or in a regular situation shall enjoy the rights set forth in Part III and, except as modified below, the rights set forth in Part IV.

Article 58

1. Frontier workers, as defined in article 2, paragraph 2 (a), of the present Convention, shall be entitled to the rights provided for in Part IV that can be applied to them by reason of their presence and work in the territory of the State of employment, taking into account that they do not have their habitual residence in that State.

2. States of employment shall consider favourably granting frontier workers the right freely to choose their remunerated activity after a specified period of time. The granting of that right shall not affect their status as frontier workers.

Article 59

1. Seasonal workers, as defined in article 2, paragraph 2 (b), of the present Convention, shall be entitled to the rights provided for in Part IV that can be applied to them by reason of their presence and work in the territory of the State of employment and that are compatible with their status in that State as seasonal workers, taking into account that they are present in that State for only part of the year.

2. The State of employment shall, subject to paragraph 1 of this article, consider granting seasonal workers who have been employed in its territory for a significant period of time the possibility of taking up other remunerated activities and giving them priority over other workers who seek admission to that State, subject to applicable bilateral and multilateral agreements.

Article 60

Itinerant workers, as defined in article 2, paragraph 2 (e), of the present Convention, shall be entitled to the rights provided for in Part IV that can be granted to them by reason of their presence and work in the territory of the State of employment and that are compatible with their status as itinerant workers in that State.

Article 61

1. Project-tied workers, as defined in article 2, paragraph 2 (f), of the present Convention, and members of their families shall be entitled to the rights

provided for in Part IV except the provisions of article 43, paragraphs 1 (b) and (c) and article 43, paragraph 1 (d), as it pertains to social housing schemes, article 45 (b), and articles 52 to 55.

2. If a project-tied worker claims that the terms of his or her work contract have been violated by his or her employer, he or she shall have the right to address his or her case to the competent authorities of the State which has jurisdiction over that employer, on terms provided for in article 18, paragraph 1, of the present Convention.

3. Subject to bilateral or multilateral agreements in force for them, the States Parties concerned shall endeavour to enable project-tied workers to remain adequately protected by the social security systems of their States of origin or habitual residence during their engagement in the project. States Parties concerned shall take appropriate measures with the aim of avoiding any denial of rights or duplication of payments in this respect.

4. Without prejudice to the provisions of article 47 of the present Convention and to relevant bilateral or multilateral agreements, States Parties concerned shall permit payment of the earnings of project-tied workers in their State of origin or habitual residence.

Article 62

1. Specified-employment workers as defined in article 2, paragraph 2 (g), of the present Convention, shall be entitled to the rights provided for in Part IV, except the provisions of article 43, paragraphs 1 (b) and (c); article 43, paragraph 1 (d), as it pertains to social housing schemes; article 52; and article 54, paragraph 1 (d).

2. Members of the family of specified-employment workers shall be entitled to the rights relating to family members of migrant workers in Part IV of the present Convention, except the provisions of article 53.

Article 63

1. Self-employed workers, as defined in article 2, paragraph 2 (h), of the present Convention, shall be entitled to the rights provided for in Part IV with the exception of those rights which are exclusively applicable to workers having a contract of employment.

2. Without prejudice to articles 52 and 79 of the present Convention, the termination of the economic activity of the self-employed workers shall not in itself imply the withdrawal of the authorization for them or for the members of their families to stay or to engage in a remunerated activity in the State of employment except where the authorization of residence is expressly dependent upon the specific remunerated activity for which they were admitted.

PART VI

Promotion of sound, equitable, humane and lawful conditions in connection with international migration of workers and members of their families

Article 64

1. Without prejudice to article 79 of the present Convention, the States Parties concerned shall as appropriate consult and co-operate with a view to promoting sound, equitable and humane conditions in connection with international migration of workers and members of their families.

2. In this respect due regard shall be paid not only to labour needs and resources, but also to the social, economic and cultural and other needs of migrant workers and members of their families involved, as well as to the consequences of such migration for the communities concerned.

Article 65

1. States Parties shall maintain appropriate services to deal with questions concerning international migration of workers and members of their families. Their functions shall include, inter alia:

(a) The formulation and implementation of policies regarding such migration;

(b) An exchange of information, consultation and co-operation with the competent authorities of other States Parties involved in such migration;

(c) The provision of appropriate information, particularly to employers, workers and their organizations on policies, laws and regulations relating to migration and employment, on agreements concluded with other States concerning migration and on other relevant matters;

(d) The provision of information and appropriate assistance to migrant workers and members of their families regarding requisite authorizations and formalities and arrangements for departure, travel, arrival, stay, remunerated activities, exit and return, as well as on conditions of work and life in the State of employment and on customs, currency, tax and other relevant laws and regulations.

2. States Parties shall facilitate as appropriate the provision of adequate consular and other services that are necessary to meet the social, cultural and other needs of migrant workers and members of their families.

Article 66

1. Subject to paragraph 2 of this article, the right to undertake operations with a view to the recruitment of workers for employment in another State shall be restricted to:

(a) Public services or bodies of the State in which such operations take place;

(b) Public services or bodies of the State of employment on the basis of agreement between the States concerned;

(c) A body established by virtue of a bilateral or multilateral agreement.

2. Subject to any authorization, approval and supervision by the public authorities of the States Parties concerned as may be established pursuant to the legislation and practice of those States, agencies, prospective employers or persons acting on their behalf may also be permitted to undertake the said operations.

Article 67

1. States Parties concerned shall co-operate as appropriate in the adoption of measures regarding the orderly return of migrant workers and members of their families to the State of origin when they decide to return or their authorization of residence or employment expires or when they are in the State of employment in an irregular situation.

2. Concerning migrant workers and members of their families in a regular situation, States Parties concerned shall co-operate as appropriate, on terms agreed upon by those States, with a view to promoting adequate economic conditions for their resettlement and to facilitating their durable social and cultural reintegration in the State of origin.

Article 68

1. States Parties, including States of transit, shall collaborate with a view to preventing and eliminating illegal or clandestine movements and employment of migrant workers in an irregular situation. The measures to be taken to this end within the jurisdiction of each State concerned shall include:

(a) Appropriate measures against the dissemination of misleading information relating to emigration and immigration;

(b) Measures to detect and eradicate illegal or clandestine movements of migrant workers and members of their families and to impose effective sanctions on persons, groups or entities which organize, operate or assist in organizing or operating such movements;

(c) Measures to impose effective sanctions on persons, groups or entities which use violence, threats or intimidation against migrant workers or members of their family in an irregular situation.

2. States of employment shall take all adequate and effective measures to eliminate employment in their territory of migrant workers in an irregular situation, including, whenever appropriate, sanctions on employers of such

workers. The rights of migrant workers vis-à-vis their employer arising from employment shall not be impaired by these measures.

Article 69

1. States Parties shall, when there are migrant workers and members of their families within their territory in an irregular situation, take appropriate measures to ensure that such a situation does not persist.

2. Whenever States Parties concerned consider the possibility of regularizing the situation of such persons in accordance with applicable national legislation and bilateral or multilateral agreements, appropriate account shall be taken of the circumstances of their entry, the duration of their stay in the States of employment and other relevant considerations, in particular those relating to their family situation.

Article 70

States Parties shall take measures not less favourable than those applied to nationals to ensure that working and living conditions of migrant workers and members of their families in a regular situation are in keeping with the standards of fitness, safety, health and principles of human dignity.

Article 71

1. States Parties shall facilitate, whenever necessary, the repatriation to the State of origin of the bodies of the deceased migrant workers or members of their families.

2. As regards compensation matters relating to the death of a migrant worker or a member of his or her family, States Parties shall, as appropriate, provide assistance to the persons concerned with a view to the prompt settlement of such matters. Settlement of these matters shall be carried out on the basis of applicable national law in accordance with the provisions of the present Convention and any relevant bilateral or multilateral agreements.

PART VII

Application of the Convention

Article 72

1. (a) For the purpose of reviewing the application of the present Convention, there shall be established a Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (hereinafter referred to as "the Committee");

(b) The Committee shall consist, at the time of entry into force of the present Convention, of ten and, after the entry into force of the Convention for the forty-first State Party, of fourteen experts of high moral standing,

impartiality and recognized competence in the field covered by the present Convention.

2. (a) Members of the Committee shall be elected by secret ballot by the States Parties from a list of persons nominated by the States Parties, due consideration being given to equitable geographical distribution, including both States of origin and States of employment, and to the representation of the principal legal systems. Each State Party may nominate one person from among its own nationals;

(b) Members shall be elected and serve in their personal capacity.

3. The initial election shall be held no later than six months after the date of the entry into force of the present Convention and subsequent elections every second year. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to all States Parties inviting them to submit their nominations within two months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated, indicating the States Parties that have nominated them, and shall submit it to the States Parties not later than one month before the date of the corresponding election, together with the curricula vitae of the persons thus nominated.

4. Elections of members of the Committee shall be held at a meeting of States Parties convened by the Secretary-General at United Nations Headquarters. At that meeting, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Committee shall be those nominees who obtain the largest number of votes and an absolute majority of votes of the States Parties present and voting.

5. (a) The members of the Committee shall serve for a term of four years. However, the terms of five of the members elected in the first election shall expire at the end of two years; immediately after the first election, the names of these five members shall be chosen by lot by the Chairman of the meeting of States Parties;

(b) The election of the four additional members of the Committee shall be held in accordance with the provisions of paragraphs 2, 3 and 4 of this article, following the entry into force of the present Convention for the forty-first State Party. The term of two of the additional members elected on this occasion shall expire at the end of two years; the names of these members shall be chosen by lot by the Chairman of the meeting of States Parties;

(c) The members of the Committee shall be eligible for re-election if renominated.

6. If a member of the Committee dies or resigns or declares that for any other cause he or she can no longer perform the duties of the Committee, the State Party that nominated the expert shall appoint another expert from among its own nationals for the remaining part of the term. The new appointment is subject to the approval of the Committee.

7. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee.

8. [The members of the Committee shall receive emoluments from United Nations resources on such terms and conditions as the General Assembly may decide.]

OR

[States Parties shall be responsible for:

(a) The expenses of the members of the Committee while they are performing Committee duties; and

(b) Expenses incurred in connection with the holding of meetings of States Parties and of the Committee, including reimbursement to the United Nations for any expenses, such as the cost of staff and facilities, incurred by the United Nations pursuant to paragraph 7 of this article.]

9. The members of the Committee shall be entitled to the facilities, privileges and immunities of experts on mission for the United Nations as laid down in the relevant sections of the Convention on the Privileges and Immunities of the United Nations.

Article 73

1. States Parties undertake to submit to the Secretary-General of the United Nations for consideration by the Committee a report on the legislative, judicial, administrative and other measures they have taken to give effect to the provisions of the Convention:

(a) Within one year after the entry into force of the Convention for the State Party concerned;

(b) Thereafter every five years and whenever the Committee so requests.

2. Reports made under this article shall also indicate factors and difficulties, if any, affecting the implementation of the present Convention and shall include information on the characteristics of migration flows in which the State Party concerned is involved.

3. The Committee shall decide any further guidelines applicable to the content of the reports.

4. States Parties shall make their reports widely available to the public in their own countries.

Article 74

1. The Committee shall examine the reports submitted by each State Party and shall transmit such comments as it may consider appropriate to the State Party

concerned. This State Party may submit to the Committee observations on any comment made by the Committee in accordance with this article. The Committee may request supplementary information from States Parties when considering these reports.

2. The Secretary-General of the United Nations shall, in due time before the opening of each regular session of the Committee, transmit to the Director-General of the International Labour Office copies of the reports submitted by States Parties concerned and information relevant to the consideration of these reports in order to enable the Office to assist the Committee with the expertise the Office may provide regarding those matters dealt with by the Convention that fall within the sphere of competence of the International Labour Organisation. The Committee shall consider in its deliberations such comments and materials as the Office may provide.

3. The Secretary-General of the United Nations may also, after consultation with the Committee, transmit to other specialized agencies as well as to intergovernmental organizations, copies of such parts of these reports as may fall within their competence.

4. The Committee may invite the specialized agencies and organs of the United Nations, as well as intergovernmental organizations and other concerned bodies to submit, for consideration by the Committee, written information on such matters dealt with in the Convention as fall within the scope of their activities.

5. The International Labour Office shall be invited by the Committee to appoint representatives to participate, in a consultative capacity, in the meetings of the Committee.

6. The Committee may invite representatives of other specialized agencies and organs of the United Nations, as well as of intergovernmental organizations, to be present and heard in its meetings whenever matters falling within their field of competence are considered.

7. The Committee shall present an annual report to the General Assembly of the United Nations on the implementation of the present Convention, containing its own considerations and recommendations, based, in particular, on the examination of the reports and any observations presented by States Parties.

8. The Secretary-General of the United Nations shall transmit the annual reports of the Committee to the States Parties to the present Convention, the Economic and Social Council, the Commission on Human Rights of the United Nations, the Director-General of the International Labour Office and other relevant organizations.

Article 75

1. The Committee shall adopt its own rules of procedure.

2. The Committee shall elect its officers for a term of two years.

3. The Committee shall normally meet annually.

4. The meetings of the Committee shall normally be held at United Nations Headquarters.

Article 76

1. A State Party to the present Convention may at any time declare under this article that it recognizes the competence of the Committee to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under the present Convention. Communications under this article may be received and considered only if submitted by a State Party that has made a declaration recognizing in regard to itself the competence of the Committee. No communication shall be received by the Committee if it concerns a State Party which has not made such a declaration. Communications received under this article shall be dealt with in accordance with the following procedure:

(a) If a State Party to the present Convention considers that another State Party is not fulfilling its obligations under the present Convention, it may, by written communication, bring the matter to the attention of that State Party. The State Party may also inform the Committee of the matter. Within three months after the receipt of the communication the receiving State shall afford the State that sent the communication an explanation, or any other statement in writing clarifying the matter which should include, to the extent possible and pertinent, reference to domestic procedures and remedies taken, pending or available in the matter;

(b) If the matter is not adjusted to the satisfaction of both States Parties concerned within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter to the Committee, by notice given to the Committee and to the other State;

(c) The Committee shall deal with a matter referred to it only after it has ascertained that all available domestic remedies have been invoked and exhausted in the matter, in conformity with the generally recognized principles of international law. This shall not be the rule where, in the view of the Committee, the application of the remedies is unreasonably prolonged;

(d) Subject to the provisions of subparagraph (c) of this paragraph, the Committee shall make available its good offices to the States Parties concerned with a view to a friendly solution of the matter on the basis of the respect for the obligations set forth in the present Convention;

(e) The Committee shall hold closed meetings when examining communications under this article;

(f) In any matter referred to it in accordance with subparagraph (b) of this paragraph, the Committee may call upon the States Parties concerned, referred to in subparagraph (b), to supply any relevant information;

(g) The States Parties concerned, referred to in subparagraph (b) of this paragraph, shall have the right to be represented when the matter is being considered by the Committee and to make submissions orally and/or in writing;

(h) The Committee shall, within twelve months after the date of receipt of notice under subparagraph (b) of this paragraph, submit a report:

(i) If a solution within the terms of subparagraph (d) of this paragraph is reached, the Committee shall confine its report to a brief statement of the facts and of the solution reached;

(ii) If a solution within the terms of subparagraph (d) is not reached, the Committee shall, in its report, set forth the relevant facts concerning the issue between the States Parties concerned. The written submissions and record of the oral submissions made by the States Parties concerned shall be attached to the report. The Committee may also communicate only to the States Parties concerned any views that it may consider relevant to the issue between them.

In every matter, the report shall be communicated to the States Parties concerned.

2. The provisions of this article shall come into force when ten States Parties to the present Convention have made a declaration under paragraph 1 of this article. Such declarations shall be deposited by the States Parties with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such a withdrawal shall not prejudice the consideration of any matter that is the subject of a communication already transmitted under this article; no further communication by any State Party shall be received under this article after the notification of withdrawal of the declaration has been received by the Secretary-General, unless the State Party concerned has made a new declaration.

Article 77

1. A State Party to the present Convention may at any time declare under this article that it recognizes the competence of the Committee to receive and consider communications from or on behalf of individuals subject to its jurisdiction who claim that their individual rights as established by the present Convention have been violated by that State Party. No communication shall be received by the Committee if it concerns a State Party that has not made such a declaration.

2. The Committee shall consider inadmissible any communication under this article which is anonymous or which it considers to be an abuse of the right of submission of such communications or to be incompatible with the provisions of the present Convention.

3. The Committee shall not consider any communications from an individual under this article unless it has ascertained that:

(a) The same matter has not been, and is not being, examined under another procedure of international investigation or settlement; and

(b) The individual has exhausted all available domestic remedies; this shall not be the rule where, in the view of the Committee, the application of the remedies is unreasonably prolonged or is unlikely to bring effective relief to that individual.

4. Subject to the provisions of paragraph 2 of this article, the Committee shall bring any communications submitted to it under this article to the attention of the State Party to the present Convention that has made a declaration under paragraph 1 and is alleged to be violating any provisions of the present Convention. Within six months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.

5. The Committee shall consider communications received under this article in the light of all information made available to it by or on behalf of the individual and by the State Party concerned.

6. The Committee shall hold closed meetings when examining communications under this article.

7. The Committee shall forward its views to the State Party concerned and to the individual.

8. The provisions of this article shall come into force when ten States Parties to the present Convention have made declarations under paragraph 1 of this article. Such declarations shall be deposited by the States Parties with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such a withdrawal shall not prejudice the consideration of any matter that is the subject of a communication already transmitted under this article; no further communication by or on behalf of an individual shall be received under this article after the notification of withdrawal of the declaration has been received by the Secretary-General, unless the State Party has made a new declaration.

Article 78

The provisions of article 76 of the present Convention shall be applied without prejudice to any procedures for settling disputes or complaints in the field covered by the present Convention laid down in the constituent instruments of, or in conventions adopted by, the United Nations and its specialized agencies and shall not prevent the States Parties from having recourse to any procedures for settling a dispute in accordance with international agreements in force between them.

PART VIII

General provisions

Article 79

Nothing in the present Convention shall affect the right of each State Party to establish the criteria governing admission of migrant workers and members of their families. Concerning other matters related to their legal situation and treatment as migrant workers and members of their families, States Parties shall be subject to the limitations set forth in the present Convention.

Article 80

Nothing in the present Convention shall be interpreted as impairing the provisions of the Charter of the United Nations and of the constitutions of the specialized agencies which define the respective responsibilities of the various organs of the United Nations and of the specialized agencies in regard to the matters dealt with in the present Convention.

Article 81

1. Nothing in the present Convention shall affect more favourable rights or freedoms granted to migrant workers and members of their families by virtue of:

(a) The law or practice of a State Party; or

(b) Any bilateral or multilateral treaty in force for the State Party concerned.

2. Nothing in the present Convention may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act that would impair any of the rights and freedoms as set forth in the present Convention.

Article 82

The rights of migrant workers and members of their families provided for in the present Convention may not be renounced. It shall not be permissible to exert any form of pressure upon migrant workers and members of their families with a view to their relinquishing or foregoing any of the said rights. It shall not be possible to derogate by contract from rights recognized in the present Convention. States Parties shall take appropriate measures to ensure that these principles are respected.

Article 83

Each State Party to the present Convention undertakes:

(a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;

(b) To ensure that any persons seeking such a remedy shall have his or her claim reviewed and decided by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;

(c) To ensure that the competent authorities shall enforce such remedies when granted.

Article 84

Each State Party undertakes to adopt the legislative and other measures that are necessary to implement the provisions of the present Convention.

PART IX

Final provisions

Article 85

The Secretary-General of the United Nations is designated as the depositary of the present Convention.

Article 86

1. The present Convention shall be open for signature by all States. It is subject to ratification.

2. The present Convention shall be open to accession by any State.

3. Instruments of ratification or accession shall be deposited with the Secretary-General of the United Nations.

Article 87

1. The present Convention shall enter into force on the first day of the month following a period of three months after the date of the deposit of the twentieth instrument of ratification or accession.

2. For each State ratifying or acceding to the present Convention after its entry into force, the Convention shall enter into force on the first day of the month following a period of three months after the date of the deposit of its own instrument of ratification or accession.

Article 88

A State ratifying or acceding to the present Convention may not exclude the application of any Part of it, or, without prejudice to article 3, exclude any particular category of migrant workers from its application.

Article 89

1. Any State Party may denounce the present Convention, not earlier than five years after the Convention has entered into force for the State concerned, by means of a notification in writing addressed to the Secretary-General of the United Nations.

2. Such denunciation shall become effective on the first day of the month following the expiration of a period of twelve months after the date of the receipt of the notification by the Secretary-General of the United Nations.

3. Such a denunciation shall not have the effect of releasing the State Party from its obligations under the present Convention in regard to any act or omission which occurs prior to the date at which the denunciation becomes effective, nor shall denunciation prejudice in any way the continued consideration of any matter which is already under consideration by the Committee prior to the date at which the denunciation becomes effective.

4. Following the date at which the denunciation of a State Party becomes effective, the Committee shall not commence consideration of any new matter regarding that State.

Article 90

1. After five years from the entry into force of the Convention a request for the revision of the Convention may be made at any time by any State Party by means of a notification in writing addressed to the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate any proposed amendments to the States Parties with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that within four months from the date of such communication at least one third of the States Parties favours such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting shall be submitted to the General Assembly for approval.

2. Amendments shall come into force when they have been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of the States Parties in accordance with their respective constitutional processes.

3. When amendments come into force, they shall be binding on those States Parties that have accepted them, other States Parties still being bound by the provisions of the present Convention and any earlier amendment that they have accepted.

Article 91

1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of signature, ratification or accession.

2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted.

3. Reservations may be withdrawn at any time by notification to this effect addressed to the Secretary-General of the United Nations, who shall then inform all States thereof. Such notification shall take effect on the date on which it is received.

Article 92

1. Any dispute between two or more States Parties concerning the interpretation or application of the present Convention that is not settled by negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. Each State Party may at the time of signature or ratification of the present Convention or accession thereto declare that it does not consider itself bound by paragraph 1 of this article. The other States Parties shall not be bound by that paragraph with respect to any State Party that has made such a declaration.

3. Any State Party that has made a declaration in accordance with paragraph 2 of this article may at any time withdraw that declaration by notification to the Secretary-General of the United Nations.

Article 93

1. The present Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of the present Convention to all States.

UNITED
NATIONS

A

General Assembly

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GENERAL

A/C.3/45/2
21 September 1990

ORIGINAL: ENGLISH

Forty-fifth session
THIRD COMMITTEE

ALLOCATION OF AGENDA ITEMS TO THE THIRD COMMITTEE

Letter dated 21 September 1990 from the President of the General Assembly addressed to the Chairman of the Third Committee

1. I have the honour to transmit to you herewith the decisions taken by the General Assembly at the 3rd plenary meeting of its forty-fifth session pertaining to the allocation of items to the Third Committee.

2. May I also invite your attention to the recommendations on the organization of the session, contained in section II of the report of the General Committee (A/45/250), which were also approved by the General Assembly at its third plenary meeting. I earnestly request your co-operation in this regard.

(Signed) Guido de MARCO

Annex

ALLOCATION OF ITEMS TO THE THIRD COMMITTEE

1. Report of the Economic and Social Council [chapters I, III (sections A, B and E), V, VI (sections C and F) and VIII] (item 12).

[The General Assembly decided that the chapters of the report listed below would also be referred to plenary meetings and to the Second, Fourth and Fifth Committees:

(a)	Chapter I	Plenary meetings and Second, Fourth and Fifth Committees
(b)	Chapter III (section B)	Plenary meetings and Second and Fifth Committees
(c)	Chapter VI (section C)	Fifth Committee
(d)	Chapter VI (section F)	Second Committee
(e)	Chapter VIII	Plenary meetings and Second Committee]

2. Adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to the racist and colonialist régime of South Africa (item 88).

3. Effective implementation of United Nations instruments on human rights and effective functioning of bodies established pursuant to such instruments (item 89).

4. World social situation (item 90).

5. Elimination of all forms of racial discrimination (item 91).

6. Implementation of the World Programme of Action concerning Disabled Persons and the United Nations Decade of Disabled Persons (item 92).

7. Human rights and scientific and technological developments (item 93).

8. Alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms (item 94).

9. New international humanitarian order (item 95).

10. Policies and programmes involving youth (item 96).

11. Implementation of the Convention on the Rights of the Child (item 97).

12. Implementation of the Programme of Action for the Second Decade to Combat Racism and Racial Discrimination (item 98).

13. Question of aging (item 99).

14. Crime prevention and criminal justice (item 100).

15. Elimination of all forms of discrimination against women (item 101).

16. Forward-looking strategies for the advancement of women to the year 2000 (item 102).

    [In connection with this item, the General Assembly decided that the report of the Administrator of the United Nations Development Programme on the operations, management and budget of the United Nations Development Fund for Women would be referred to the Second Committee for consideration under item 84 (Operational activities for development).]

17. Importance of the universal realization of the right of peoples to self-determination and of the speedy granting of independence to colonial countries and peoples for the effective guarantee and observance of human rights (item 103).

18. International Year of the Family (item 104).

19. International Covenants on Human Rights (item 105).

20. Elimination of all forms of religious intolerance (item 106).

21. Office of the United Nations High Commissioner for Refugees (item 107).

22. International action to combat drug abuse and illicit trafficking (item 108).

23. Torture and other cruel, inhuman or degrading treatment or punishment (item 109).

24. Enhancing the effectiveness of the principle of periodic and genuine elections (item 110).

With regard to item 123 (Joint Inspection Unit), the General Assembly decided that the item would be allocated to the Fifth Committee with the understanding that the reports of the Unit dealing with the subject-matter assigned to other Main Committees would be referred also to those Committees. In the case of the Third Committee, the relevant report relates to item 12.

UNITED
NATIONS

A

General Assembly

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27 September 1990

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Forty-fifth session
THIRD COMMITTEE
Item 104

INTERNATIONAL YEAR OF THE FAMILY

Letter dated 18 September 1990 from the Permanent Mission of Norway to the United Nations addressed to the Secretary-General

The Permanent Mission of Norway to the United Nations presents its compliments to the Secretary-General of the United Nations and has the honour to refer to Economic and Social Council resolution 1989/49 of 24 May 1989 in which the Council inter alia took note with appreciation of the Norwegian Government's offer to act as host to an expert meeting on the negative social consequences of alcohol use that would be convened in 1990 under United Nations auspices.

The Permanent Mission of Norway is pleased to inform the Secretary-General that the Expert Meeting on the Negative Social Consequences of Alcohol Use was held in Oslo, Norway, from 27 to 31 August 1990. The report of the Meeting is annexed hereto.

The Secretary-General of the United Nations is kindly requested to have the report circulated as a document of the forty-fifth session of the General Assembly.

Annex

REPORT OF THE EXPERT MEETING ON THE NEGATIVE SOCIAL CONSEQUENCES OF ALCOHOL USE

Oslo, 27-31 August 1990

Organized by the

MINISTRY OF HEALTH AND SOCIAL AFFAIRS

GOVERNMENT OF NORWAY

In collaboration with the

UNITED NATIONS OFFICE AT VIENNA

CENTRE FOR SOCIAL DEVELOPMENT AND HUMANITARIAN AFFAIRS

INTRODUCTION

1. The Expert Meeting on the Negative Social Consequences of Alcohol Use was held in Oslo, Norway, from 27 to 31 August 1990. The meeting was convened by the Norwegian Ministry of Health and Social Affairs with substantive support by the United Nations Centre for Social Development and Humanitarian Affairs at Vienna.

2. The Expert Meeting brought together highly qualified experts in research and policy-making in the matter of alcohol use and in related social services. It served as a forum for an exchange of knowledge and experience. Themes discussed during the meeting included: global trends in alcohol consumption; economic and social costs of alcohol use; socio-cultural aspects concerning alcohol-related behaviour; and methods for the prevention and treatment of alcohol-related damages. It sought to identify those social measures that may appropriately be taken in different national circumstances, as well as the international level, to meet the challenges posed by the negative social consequences of alcohol use. Specific attention was given to broader societal and environmental factors contributing to alcohol-related damage, as well as to policies and programmes designed to prevent hazardous or harmful drinking, to help individuals with alcohol problems and to support their families and communities.

I. BACKGROUND

3. In its resolution 1989/49 of 24 May 1989, the United Nations Economic and Social Council accepted the recommendation of the Commission for Social Development and requested the Secretary-General to consider ways of following up the recommendations of the Interregional Consultation on Developmental Social Welfare Policies and Programmes by, inter alia, carrying out a study on the negative social consequences of alcohol use, based on the report of an expert meeting to be convened. In the same resolution, the Council took note with appreciation of the offer by the Government of Norway to host an expert meeting on the negative social consequences of alcohol use in 1990. The report of the Expert Meeting would provide a basis for the future activities of the United Nations in this area.

II. CONCLUSIONS AND RECOMMENDATIONS

A. Conclusions

4. The Meeting noted that alcohol and alcohol-related problems have never been on the agenda of the United Nations. Certain aspects have, however, been addressed by the specialized agencies. Based on its deliberations, the Meeting arrived at the conclusions set out below.

1. Trends in alcohol consumption and the economic importance of production and trade in alcohol

5. The Meeting reviewed available statistics on consumption, production of and trade in alcoholic beverages. During the 1950s and 1960s per capita alcohol consumption increased markedly in most countries. More recently, consumption has levelled off - and even decreased in some industrialized countries. However, towards the end of the 1980s consumption started to increase again in some countries. While data are less available in developing countries, it is likely that in many, consumption continues to increase.

6. The Meeting was of the opinion that available statistics were adequate for monitoring trends in per capita consumption, although more systematic investigation should be undertaken in order to secure standard methods of estimation for illicit production and consumption so as to secure comparable data at the international level. Statistics show wide variations in per capita consumption, which a priori cannot be ascribed to differences in income levels or prices, but rather may reflect socio-cultural factors.

7. As far as assessing the importance of the alcohol industry in the total economy in various countries is concerned, the Meeting found this impossible to measure with any accuracy. It was recognized that similar difficulties would arise in connection with such assessments for all smaller sectors of the economy.

2. Economic and social costs of alcohol

8. The Meeting reviewed various assessments and methods concerning social and economic costs of drinking, in particular with regard to productivity since the decline in productivity was regarded as the major component in the social cost of drinking. In addition, the social problems associated with alcohol affect family relationships, the situation of women and the welfare of children and youth. Resources directed into alcohol use are having a negative effect on economic development and the quality of life.

9. It became clear that variations in the framework behind studies will lead to different estimates of both the size of these costs and their composition. Although attempts to estimate such costs have been criticized for their lack of policy relevance, the Meeting agreed that there is a wide range of alternative policies which may reduce alcohol-related problems, and consequently it is necessary to consider what the costs and benefits may be of these alternatives. Further work which will improve and facilitate cost estimates concerning preventive strategies should therefore be encouraged.

3. Socio-cultural differences in alcohol-related behaviour

10. The Meeting recognized that there is a wide variety of cultural traditions and religious differences which tend to influence the pattern of alcohol use. In the wake of modern industrialization and promotion, the production and consumption of alcoholic beverages have increased in a number of developing countries.

11. The Meeting felt that the attention of the international community should be drawn to the need to discuss possibilities for developing policies to control alcohol consumption. Such policies should of course be adapted to the diverse social and cultural needs and take into account already existing conditions and the level of economic development. In this connection mention was made of the work being done in the United Nations and specialized agencies on drugs and tobacco.

4. Prevention and limitation of alcohol-related damage

12. The Meeting recognized that a systematic prevention of drinking problems had to be directed towards the whole population and not only towards people already classified as alcohol abusers. However, attention by primary care workers in individual cases in order to identify potention problems and alleviate symptoms was most helpful.

13. The Meeting discussed in detail the various treatments available to individuals and concluded that no single approach could be applied across the board. Some costly treatments showed limited effect, while some self-help programmes were relatively effective. Emphasis was placed on the need for early identification and simple intervention and it w s felt that this might most appropriately be done through primary care and the strengthening of local social networks.

14. The Meeting also reviewed general policy measures available to limit alcohol use and its harmful consequences. The Meeting found that alcohol price levels and the extent of availability do have an independent effect on the level of alcohol use. Experience in many countries has shown that price policy and a strictly controlled distribution system are the most effective control measures. Stimulation of alternatives to alcoholic beverages and control on advertising and promotion may also prove to be effective strategies and deserve further study. An effective response to alcohol-related problems requires the collaboration of many sectors of government and is not solely the concern of health and welfare ministries.

B. Recommendations

1. International level

15. The Secretary-General of the United Nations is requested:

(a) To assign high priority to questions concerning the negative social consequences of alcohol use in the work programmes related to social development, advancement of women, crime prevention, youth, children and human settlements;

(b) To include the topic of negative social consequences of alcohol use in the follow-up of the Guiding Principles for Developmental Social Welfare Policies and Programmes in the Near Future; a/

(c) To initiate studies, and organize technical meetings, aimed at developing improved indicators of social problems related to alcohol use and at increasing understanding of the prevalence and causes of such problems in order to facilitate prevention;

(d) To incorporate alcohol-use related themes in the preparatory work for the International Year of the Family in 1994;

(e) To initiate preparations to convene a global conference on the social, economic and environmental impact of alcohol production and consumption on development, preferably by 1994;

(f) To undertake studies, provide technical advisory services and organize technical and policy-oriented meetings targeted particularly towards developing countries' needs in the field of alcohol control;

(g) To seek the assistance of donor countries and international funding agencies to provide the additional resources needed to undertake the above activities;

(h) To bring this report to the attention of the member States of the Commission for Social Development, the Commission on the Status of Women, the Commission on Human Settlements, the Committee on Crime Prevention and Control, and the Committee on Narcotic Drug Control;

(i) To bring the conclusions and recommendations of this Meeting to the attention of the relevant specialized agencies, particularly the International Labour Organisation and the World Health Organization, for their consideration and appropriate follow-up action.

2. Regional level

16. The Executive Secretaries of the United Nations regional commissions and the Secretaries-General of the regional intergovernmental bodies are requested:

(a) To initiate regional-level deliberations to examine the negative social consequences of alcohol use with a view to formulating appropriate policies, strategies and programmes, ameliorate the trend in industrialized countries and reverse the current trend towards deterioration in developing countries;

(b) To incorporate alcohol-related questions in their work programmes;

(c) To seek the assistance of donor countries and funding agencies to provide the needed resources.

III. ORGANIZATIONAL AND RELATED MATTERS

A. Opening of the Meeting

17. Ms. Wenche Frogn Sellaeg, Minister of Health and Social Affairs, Norway, opened the meeting.

18. In her statement, Ms. Wenche Frogn Sellaeg emphasized the concern of Norway and other Nordic States with questions pertaining to alcohol-related problems with a view to putting the matter on the agenda of the United Nations in a comprehensive way. She suggested that this Meeting should focus on the social and environmental consequences of alcohol use, rather than on the identification, treatment or rehabilitation of individuals with alcohol-related problems, because of the relatively inadequate attention given to those questions.

19. The Minister underlined that in framing social policies one should address the root causes of the problems in such a way that measures taken respond to the causes and not merely the alleviation of symptoms. In order to do so, one had to study possible relationships between undesirable social symptoms and their causes. She felt that the deliberations of this Meeting would illustrate such an approach and expressed the hope that this Expert Meeting would succeed in arriving at a report that would include findings that might lead to strengthened United Nations involvement in this field and more effective national programmes.

B. Participants

20. Invitations were extended by the Norwegian Government to all the States members of the United Nations Commission for Social Development and also to those Governments which expressed interest in participating in this Meeting. In addition, several resource persons were invited to prepare technical papers which served as a basis for the deliberations. Several experts were also invited to serve as discussants. Representatives from the International Labour Organisation and the World Health Organization were also invited and informed the Meeting about

activities being undertaken by their respective organizations concerning various aspects of alcohol-related problems. Three non-governmental organizations also participated. A list of participants as well as a list of technical papers, discussant papers and national reports is annexed.

C. Chairperson of the Meeting and preparation of the report

21. Mr. Jon O. Norbom, Permanent Secretary, Norwegian Ministry of Health and Social Affairs, served as chairperson of the Meeting. The representatives of the United Nations Centre for Social Development and Humanitarian Affairs assisted in preparing the draft report.

IV. MAJOR THEMES AND ISSUES DISCUSSED

A. Trends in alcohol consumption and the economic importance of production and trade in alcohol

22. Production and consumption of alcohol are among the oldest activities of mankind, and among the most widely spread. While much consumption takes place without leading to problems, some of it is definitely associated with serious social, economic and psychological problems. It is for this reason that accurate information is needed to assess the significance of current patterns and trends. Based on information available, from 1961 to 1988 production, trade and consumption were expanding in absolute terms. In many industrialized countries, per capita consumption peaked some time in the 1970s and had either levelled off or declined subsequently. However, in developing and some industrialized countries, the per capita consumption continues to rise.

23. From strictly economic angles, production and trade in alcohol in terms of employment and gross domestic product are not of major importance in most countries which were large producers and exporters of alcoholic beverages.

24. However, the question of the economic importance of the alcohol industry is open to debate. In some countries, it is very influential since the receipts for alcohol taxation constitute a significant proportion of total revenues. Further, in many countries alcoholic beverages form an important part of consumer expenditures, and changes in alcohol prices have an impact on the rate of inflation. Thus, the intrinsically small economic importance of the alcohol industry needs to be viewed in the broader context of its far greater social and political significance when compared to industries of the same size.

B. Economic and social costs of alcohol

25. Alcohol use has both economic and social aspects. Alcohol plays a diverse and complex role in shaping everything from personal health-related habits and occupational choice to family and social intercourse. Problems associated with alcohol vary considerably from country to country, depending on patterns of

consumption and cultures. The social problems associated with alcohol affect family relationships, the situation of women and the welfare of children and youth. Resources directed into alcohol use are having a negative effect on economic development and the quality of life.

26. The areas of economic concern in this field, i.e. alcohol market research, expenditures on alcohol, price and income elasticity of alcohol demand, are being complemented with attempts to assess losses resulting from alcohol use and abuse. Absence of appropriate empirical data in many countries and methodological problems limit possibilities of a full economic calculation. Cost estimates of alcohol use in different countries are usually compared with the national income from alcohol production and distribution. However, alcohol-related losses tend to be underestimated because many elements of such costs escape quantification, while others are very difficult or impossible to assess. Some effects have only qualitative aspects, but these social costs are of considerable importance.

27. Analysis of alcohol-related problems and determination of the causal role of alcohol are essential for the appraisal of their impact on productivity. Some of the alcohol-related production problems are: lower productivity; absenteeism; accidents at work; and frequent turnover in personnel.

28. In connection with the workplace, wide-ranging initiatives, including control measures and programmes of prevention and assistance, were being undertaken to reduce alcohol-related problems.

29. There are a number of complicated issues involved in measuring the social costs of drinking. Available studies differ in theoretical approach, the aspects of alcohol use considered and how available results are linked to policy decision. Variations in the frameworks can lead to different estimates of both the size of these costs and their composition. There is, therefore, a clear need to discuss further the advantages and disadvantages of possible frameworks for measuring social costs. The most frequently used accounting methodologies to estimate the cost of alcohol-related problems are public health and the economic framework. While the first denominates the magnitude of the problem in terms of life years lost and the second in terms of the value of economic resources lost, they have a similar perspective on the relationship between society and the individuals who make up that society: both accept the full range of negative consequences stemming from alcohol-related problems as being of public concern.

30. In the public health framework, the primary concern is with the extent to which alcohol causes increased rates of mortality and morbidity. Most alcohol-related deaths before the age of 40 or so are the result of intoxication.

31. Lost productivity dominates estimates within the economic framework. However, estimates include morbidity and mortality and non-health costs; for example, social welfare programmes and the criminal justice system.

32. Drinking has been implicated as an important cause of serious traffic accidents and most other accidents, including drowning, fatal fires and workplace accidents. There is also a high rate of alcohol involvement in suicide, homicide

and other forms of violence, including domestic violence. In addition to traumatic injury and death, the economic framework includes the consequences of accidents and criminal violence. Accidents result in property damage and the legal and administrative costs of arranging insurance payments and litigation. Those are property losses and criminal justice system costs stemming from alcohol-related crime.

33. Variations in the framework behind studies will lead to different estimates of both the size of these social and economic costs and their composition. Although attempts to estimate such costs have been criticized for their lack of policy relevance, the meeting agreed that there is a wide range of alternative policies which may reduce alcohol-related problems, and consequently it is necessary to consider what the costs and benefits may be of these alternatives. Further work which will improve and facilitate cost estimates concerning preventive strategies should therefore be encouraged.

C. Socio-cultural differences in alcohol-related behaviour

34. Alcohol use is closely related to traditions, customs, rituals and religious tenets in particualr societies. Alcohol consumption patterns correspond to the social frameworks setting ideal attitudes towards the consumption of, or abstention from, alcoholic beverages. These attitudes range from total abstinence to over-permissiveness. Alcohol use is further governed by social and cultural norms concerning the contexts of use, kinds and amounts of alcohol consumed and the type of behaviour that is tolerated in a drinking situation. Thus, societies where Hinduism, Buddhism and Islam are predominant exhibit distinct attitudes and behaviours regarding alcohol use. This is also true with respect to cultures in Africa and the indigenous peoples of Latin America, the Pacific region and North America. Without idealizing the situation, it is reasonable to state that traditional alcohol use in these cultural contexts was well regulated and controlled without major negative disruptions.

35. The contemporary situation, however, is very different. Outside political, economic and cultural incursions, rapid urbanization, increasing global communications, and the loosening of traditional social controls result in severe damage to individual, family and community stability as well as to the overall process of development. Recent data emphasized also the homogenization of alcohol-consumption patterns among adolescents, often associated with inebriation and violent behaviour. Aggressive commercial promotion of alcoholic beverages contributes significantly to the above-mentioned negative consequences. All this results in alcohol consumption in many parts of the world assuming problematic dimensions.

36. In spite of these factors, a large segment of the population in many parts of the world are either abstinent or well disciplined with respect to alcohol. Careful policy and programme initiatives, undertaken with due regard to local socio-cultural contexts, can go a long way in reversing the current deterioration.

D. Prevention and limitation of alcohol-related damage

37. Alcohol-related damage extends from the individual to his family, immediate community, workplace, other fellow citizens and the broader society as a whole. The impact of this damage on economic productivity, social stability, family well-being, the welfare of children and youth, the situation of women and criminality is extremely significant and calls for a systematic review of existing measures for prevention, treatment and rehabilitation, as well as for innovative and effective approaches.

38. Preventive measures must include those aimed at the population in general, as well as special target groups. A preventive programme aimed exclusively at special risk groups would be incomplete, and would run the risk of having its efficiency severely circumscribed. The general preventive measures which need to be considered should take into consideration the general level of consumption in society, drinking patterns, including frequency of intoxication, the social contests for drinking and the cultural rules governing comportment when intoxicated.

39. Preventive measures also need to encompass environmental factors contributing to alcohol-related problems. These include pricing of alcoholic beverages and the extent of legal and physical availability of alcohol. Available research evidence demonstrates that changes in physical, legal and economic availability of alcohol often will have an impact on consumption levels and rates of alcohol-related problems. In some countries, illicit production and distribution contribute to negative social consequences of alcohol use. This should be taken into account when designing preventive strategies, in order to ensure the appropriate balance of control on price and availability and enforcement against illicit production and distribution.

40. The range of treatment services is vast, ranging from brief advice to intensive professional involvement. The question of effectiveness of particular treatment methods is not easily answered, but there is concern that some expensive treatment methods may not be cost efficient. There is a need for intervention, by treatment professionals, to recognize the many causal factors and broad effects of alcohol-related problems, and to include families into treatment. Self-help groups (and a combination of self-help with professional help) play an important role in recovery in many countries of the world.

41. Education to increase awareness of the hazards of alcohol use will contribute to overall attitudes to alcohol control and consumption and the values attached to alcohol use in the media.

42. An effective response to alcohol-related problems requires the collaboration of many sectors of government and is not solely the concern of health and welfare ministries. Non-governmental organizations, both national and international, which also play an important role in relation to both prevention and recovery in many parts of the world should be supported.

Notes

a/ See E/CONF.80/10, chap. III.

Appendix I

LIST OF PARTICIPANTS

(a) Appointed by Governments members of the Commission for Social Development and other Governments which have requested to participate

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SWEDEN	Carl-Anders Ifvarsson Deputy Director General National Board of Health and Welfare 106 30 STOCKHOLM
UNION OF SOVIET SOCIALIST REPUBLICS	Revaz Uturgaury Foreign Ministry Department for International Humanitarian Co-operation and Human Rights Ministry of Foreign Affairs Smolenskaja-Sennaja 32-34 MOSCOW Aleksandr Glazov Chief Specialist on Alcohol and Drug Dependence Ministry of Health Department for Narcology and Psychiatry Rakhmanovskij Per. D. 3 MOSCOW
UNITED STATES OF AMERICA	Loran Archer Deputy Director National Institute on Alcohol Abuse and Alcoholism Room 16-105 Parklawn Building 5600 Fisher's Lane ROCKVILLE, MD 20857

(b) <u>United Nations and specialized agencies</u>

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	Dusan Tomko P.O. Box 500 A-1400 Vienna AUSTRIA
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World Health Organization	Marío Argandona World Health Organization 1211 Geneva 27 SWITZERLAND

(c) Non-governmental organizations

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Appendix II

LIST OF DOCUMENTS

Technical papers and discussion papers

T/1	Patterns and Trends in Alcohol Consumption: A statistical survey, Mr. Nicholas Vanston
T/2	The Social Cost of Drinking, Prof. Philip J. Cook
T/2/Add.1	Discussion Paper, Dr. Christine Godfrey
T/3	Alcohol Behaviour in a Socio-Cultural Perspective, Prof. Davinder Mohan
T/3/Add.1	Discussion Paper, Dr. Louis Molamu
T/3/Add.2	Discussion Paper, Dr. Mario Argandona
T/4	Economic Costs of Alcohol Abuse, with special emphasis on productivity, Dr. J. Morawski, Dr. J. Moskalewicz, Prof. I. Wald
T/4/Add.1	Discussion Paper, Dr. Marie Choquet
T/5	The Prevention of Alcoholism and Drinking Problems - Who are the Target Groups? Dr. Ole-Jørgen Skog
T/5/Add.1	Discussion Paper, Dr. Mario Argandona
T/6	Services Available to Deal with Problems Faced and Created by Alcohol Abusers, Bruce Ritson M.D.
T/6/Add.1	Discussion Paper, Dr. Sally Casswell
T/7	Current Approaches to Limit Alcohol Abuse and the Negative Consequences of Use: A Comparative Overview of Available Options and an Assessment of Proven Effectiveness, Dr. Esa Osterberg
T/7/Add.1	Discussion Paper, Dr. T. Petrakova

Other documents distributed

The following national reports were submitted:

Finland

India

Libyan Arab Jamahiriya

Norway

Poland

Portugal

Sweden

Union of Soviet Socialist Republics

The International Labour Organisation, the World Health Organization and the International Organization of Good Templars also submitted reports.

UNITED
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A/C.3/45/4
3 October 1990

ORIGINAL: ENGLISH

Forty-fifth session
THIRD COMMITTEE
Agenda item 108

INTERNATIONAL ACTION TO COMBAT DRUG ABUSE AND ILLICIT TRAFFICKING

Letter dated 2 October 1990 from the Permanent Representative of Afghanistan to the United Nations addressed to the Secretary-General

I have the honour to transmit to you a message from H.E. Mr. Mohammad Rafiaa, Vice President of the Republic of Afghanistan and Chairman of the High National Commission on the Fight against Illicit Production, Trafficking and Abuse of Narcotic Drugs, addressed to Your Excellency.

I have further the honour to request that the message be circulated as an official document of the General Assembly, under agenda item 108.

(Signed) Noor Ahmad NOOR
Ambassador
Permanent Representative

Annex

MESSAGE FROM THE VICE PRESIDENT OF THE REPUBLIC OF AFGHANISTAN AND CHAIRMAN OF THE HIGH NATIONAL COMMISSION ON THE FIGHT AGAINST ILLICIT PRODUCTION, TRAFFICKING AND ABUSE OF NARCOTIC DRUGS ADDRESSED TO THE SECRETARY-GENERAL

The illicit production, trafficking and abuse of narcotic and psychotropic drugs is among the most serious problems of the world community, threatening humanity and its modern civilization. The United Nations has always striven to create favourable conditions for international co-operation against this problem. The Republic of Afghanistan deeply appreciates the role played by Your Excellency in the fight against this fatal phenomenon facing humanity.

It is well known that in the years during which the people and Government of the Republic of Afghanistan were shouldering the heavy weight of a destructive war, certain parts of the frontier areas between Afghanistan and Pakistan were turned into one of the largest bases for producing and processing narcotic drugs. Numerous smugglers, whose identities are certainly recognizable, are dealing in a huge way with narcotic drugs, in close co-operation with the international Mafia.

The Republic of Afghanistan has adopted serious measures, within its available means, to fight against the illegal cultivation, production, trafficking and abuse of narcotic drugs. During the years 1978 to 1990, a total of 228 tons of narcotic drugs valued at 7,200,000,000 afghanis were seized and 1,912 offenders dealing in narcotic drugs arrested. During the first half of the current year alone, 1,947 kilograms of narcotic drugs were seized and narcotic plants cultivated over an area of 60 hectares were destroyed. All narcotic drugs that have no legal and medical use are burned and destroyed. On the basis of a decree issued by H.E. Dr. Najibullah, President of the Republic of Afghanistan, the High National Commission on the Fight against Illicit Production, Trafficking and Abuse of Narcotic Drugs was created, of which I have the honour to be Chairman. The establishment of such a high-level commission, of which the Chief Justice, the Attorney-General, Deputy Prime Minister and 12 members of the Cabinet are members, and the allocation of financial resources to the fight against the illicit production, smuggling and abuse of narcotic drugs are unprecedented in our country.

To complete the legal basis for the struggle, a special law on the fight against the illicit production, trafficking and abuse of narcotic drugs will soon be submitted to the Parliament for adoption and special courts and attorneys will be created to investigate and try those who deal in narcotic drugs. The creation of the Society of Volunteer Psychiatrists, the holding of seminars in schools and institutions of higher and vocational education and the active participation of the clergy in the fight against drug abuse as behaviour that runs contrary to the sacred principles of Islam, as well as the great efforts of social organizations, the mass media and the State organs, both in the capital and the provinces, reflect the vast scope of the measures adopted by the Republic of Afghanistan to fight this social disease.

The Republic of Afghanistan stands ready to co-operate with all neighbours, countries of the region and the world in the fight against this problem. In our opinion, the question of drug abuse is an international problem that cannot be dealt with effectively by the individual States alone. It was with this understanding that, during the recent official friendly visit of H.E. Dr. Najibullah, President of the Republic of Afghanistan, to India, an agreement on mutual co-operation on reducing the demand for narcotic drugs was signed between the two countries. The office of the United Nations Development Programme (UNDP) at Kabul has been informed of this agreement.

Referring to the messages of the President of the Republic of Afghanistan and that of the Minister for Foreign Affairs addressed to Your Excellency, I hope that the United Nations and the International Board on Narcotic Drugs Control will increase its assistance to the Republic of Afghanistan in its fight against narcotic drugs, which is being carried on in the framework of the conventions of 1961 and 1971 as well as the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. We are confident that establishing a representative office of the United Nations Fund for Drug Abuse Control at Kabul and visits to our country of its experts as well as those of other concerned United Nations bodies for an exchange of experience on the practical measures that we are implementing, would constitute huge steps in this regard.

Mohammad RAFIAA
Vice President of the Republic
of Afghanistan, and
Chairman of the High National
Commission on the Fight against
Illicit Production, Trafficking
and Abuse of Narcotic Drugs

UNITED
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THIRD COMMITTEE
Agenda items 101 and 102

ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN

FORWARD-LOOKING STRATEGIES FOR THE ADVANCEMENT OF WOMEN
TO THE YEAR 2000

Letter dated 12 October 1990 from the Permanent Representative of Austria to the United Nations addressed to the Secretary-General

I have the honour to forward to you an advance copy of a letter from the Federal Minister for Foreign Affairs with regard to the holding of a world conference on women in 1995. The original will be forwarded immediately to you upon arrival.

I have the honour to request that the present letter be issued as a document of the General Assembly under items 101 and 102 well in advance of the discussion of these items in the Third Committee.

(Signed) Peter HOHENFELLNER
Ambassador

Annex

LETTER DATED 11 OCTOBER 1990 FROM THE FEDERAL MINISTER FOR FOREIGN AFFAIRS OF AUSTRIA ADDRESSED TO THE SECRETARY-GENERAL

I should like to refer to General Assembly resolution 44/77 of 8 December 1989 and Economic and Social Council resolution 1990/12 of 24 May 1990 regarding the holding of a world conference on women in 1995.

On behalf of the Austrian Government that took a decision to this effect, I wish to convey to you an invitation by Austria to hold the world conference on women in 1995 at Vienna.

In addition to this invitation, the Austrian Government is prepared to host a non-governmental organizations forum, as it is traditionally organized as an ancillary meeting to the world conference.

The Austrian Government and people would be most satisfied to see the next world conference on women held, for the first time, at Vienna. Austria's commitment to the cause of the United Nations Decade for Women and to implementing the recommendations that have resulted from the Decade is well known. In this context, I would like to add that Vienna, as the focal point for all social activities within the United Nations system, in particular in the field of the advancement of women, has a long-standing tradition as a meeting place for international organizations and large-scale conferences organized by the United Nations.

I am therefore convinced that holding the world conference on women in 1995 at Vienna would be highly appropriate.

I should like to assure you of the close co-operation of the Government of Austria in the preparation of the conference.

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17 October 1990

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Forty-fifth session
THIRD COMMITTEE
Agenda item 119

PROGRAMME PLANNING

Letter dated 11 October 1990 from the Chairman of the Fifth Committee addressed to the Chairman of the Third Committee

I have the honour to refer to the letter dated 21 September 1990 addressed to me by the President of the General Assembly (A/C.5/45/5), by which he informed me that at the 3rd plenary meeting of the forty-fifth session, held on 21 September 1990, the General Assembly had decided to allocate agenda item 119, Programme planning, among others, to the Fifth Committee.

By its resolution 36/228 A of 18 December 1981, section I, the General Assembly endorsed the conclusions and recommendations of the Committee for Programme and Co-ordination (CPC) on the work of its twenty-first session. 1/ One of those recommendations is contained in paragraph 471 of the CPC report, which states that:

> "Each chapter of the proposed medium-term plan should be submitted to the appropriate Main Committee of the General Assembly before the plan as a whole is adopted by the Assembly in plenary meeting."

At its current session, the General Assembly has before it the proposed medium-term plan for the period 1992-1997 (A/45/6), the consolidated summary of the comments and recommendations made by Member States and intergovernmental bodies since 1988 on the draft introduction to the medium-term plan for the period 1992-1997 (A/45/279), as well as the report of CPC on the work of its thirtieth session (A/45/16 (Parts I and II)).

The annex to the present letter indicates, for each programme of the proposed plan, the relevant Main Committee(s) to which it should be referred.

In order to enable the Fifth Committee to take fully into account the views which the Member States may wish to express in the Third Committee on the relevant programmes of the proposed medium-term plan for the period 1992-1997, it would be appreciated if such views were to be communicated to the Fifth Committee no later than 9 November 1990.

(Signed) E. Besley Maycock
Chairman of the Fifth Committee
of the General Assembly

Notes

1/ Official Records of the General Assembly, Thirty-sixth Session, Supplement No. 38 (A/36/38), chap. VII.

Annex

Consideration of the proposed medium-term plan for the period 1992-1997 and related documents by the General Assembly in plenary meetings a/ and the Main Committees of the General Assembly

Programmes and related documents	To be referred to
Introduction to the plan b/, annex to the introduction, c/ and note by the Secretariat containing a consolidated summary of the comments and recommendations made by Member States and intergovernmental bodies since 1988 on the draft introduction to the medium-term plan for the period 1992-1997 d/	The General Assembly and all Main Committees
Programmes 1 to 6, 10, 37 and 45	The General Assembly
Programmes 1, 2 and 7	First Committee
Programmes 1, 2, 4, 5, 6, 8, 35, 36 and 38	Special Political Committee
Programmes 11 to 24, 30 to 34, 37 and 45	Second Committee
Programmes 11, 12, 25 to 36	Third Committee
Programmes 1 and 4	Fourth Committee
Programmes 39 to 44	Fifth Committee
Programme 9	Sixth Committee

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a/ The General Assembly in plenary meeting is listed because the programmes and related documents referred to it deal or are related to many of the items which are on its agenda.

b/ A/45/6 (Introduction)

c/ A/45/6 (Annex to the introduction)

d/ A/45/279.